

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MAY 24, 2004

**SENATE BILL**

**No. 1893**

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**Introduced by Senator Burton**

March 3, 2004

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An act to amend Sections 21625, 21626, 21626.5, ~~21627~~, 21628, 21628.5, 21630, 21631, 21640, 21641, 21642, and 21647 of, to add Sections 21628.2, 21628.3, 21632, 21636.7, and 21636.8 to, and to repeal and add Section 21628.1 of, the Business and Professions Code, and to amend Sections 21208, 21300, 21300.1, and 21301 of, and to add Sections 21301.2 and 21301.3 to, the Financial Code, relating to ~~personal property~~. 21630, 21631, 21636, 21640, 21641, 21642, 21645, and 21647 of, to amend and repeal Sections 21627 and 21633 of, to add Sections 21626.1, 21627.1, 21627.2, 21628.3, 21632, 21635, 21636.4, 21636.7, and 21636.8 to, to repeal Section 21634 of, and to repeal and add Sections 21628.1 and 21628.5 of, the Business and Professions Code, to amend Sections 21300, 21301, and 21307 of, to amend, repeal, and add Section 21208 of, to add Section 21308 to, and to repeal Section 21300.1 of the Financial Code, relating to personal property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1893, as amended, Burton. Dealers and pawnbrokers: regulation.

Existing law generally requires a pawnbroker, secondhand dealer, coin dealer, and business machine dealer, as defined, to report specified transactions to the local law enforcement agency where their business is located. Under existing law, upon implementation of an electronic

reporting system by the Department of Justice, secondhand dealers and coin dealers are generally required to report this information electronically. Existing law requires that a local law enforcement agency issue a license to engage in the business of a secondhand dealer or pawnbroker to an applicant who meets designated criteria and allows the assessment of a licensure fee. Existing law makes a knowing violation of the provisions regulating these dealers and pawnbrokers a crime.

This bill would generally require ~~on and after January 1, 2008~~, that *all secondhand tangible personal property, as defined, acquired by a secondhand dealer, coin dealer, business machine dealer, and pawnbroker make their reports be reported electronically upon an electronic data reporting system becoming operational.* The bill would require the Attorney General, in consultation with local law enforcement agencies and others, to ~~develop a statewide electronic data reporting take specified steps toward developing that system that would be operational and to report to the Legislature on or before January 1, 2007~~ 2006, on the development process. The bill would require, subject to funding and system development criteria, that the electronic data reporting system be operational on or before January 1, 2007, and receive all transaction reports on or before January 1, 2008.

The bill would extend the licensure provisions to coin dealers and business machine dealers and would also extend the licensure and reporting requirements imposed on dealers and pawnbrokers to persons who advertise as a dealer or pawnbroker. The bill would make it a misdemeanor to advertise as a dealer or pawnbroker without being licensed to engage in those businesses and would also make engaging in the business of a dealer or pawnbroker without a license subject to the assessment of a civil penalty.

The bill would require a payment of a specified licensure *and renewal fee to the Department of Justice* by dealers and pawnbrokers ~~and would require that this revenue be deposited into the Electronic Data Reporting System Fund, which would be created by the bill. The bill would make the revenue in the fund available to the Attorney General upon appropriation by the Legislature in the annual Budget Act to implement the electronic data reporting system and to reimburse. The bill would also authorize local licensing authorities to assess a fee for license processing activities and would require those authorities to collect a fee from licensure applicants and forward it to the Department of Justice to conduct a criminal background inquiry. The bill would~~

*require deposit of the revenue collected by the Department of Justice into the Electronic Data Reporting System, which would be created by the bill. Because the bill would continuously appropriate the revenue to the Attorney General to implement and operate the Electronic Data Reporting System, it would make an appropriation.*

*The bill would require a secondhand dealer and a pawnbroker to delineate in their reports those transactions that were conducted at a gun show or event, as defined, and would prohibit acquisition of secondhand tangible personal property having an adulterated or obliterated serial number. The bill would also extend to business machine dealers, as defined, hold provisions pertaining to property that a peace officer has probable cause to believe is stolen.*

*Because the bill would increase the duties of a local agency by increasing the number of persons subject to licensure by a local law enforcement agency and the local provisions for suspected stolen property, thereby increasing the duties of a local agency, and would make additional activities subject to criminal prosecution, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

*Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

- 1     **SECTION 1.**—~~Section 21625 of the Business and Professions~~
- 2     ~~Code is amended to read:~~
- 3     **21625.**—~~It is the intent of the Legislature in enacting this article~~
- 4     ~~to curtail the dissemination of stolen property, to facilitate the~~



1 ~~rapid recovery of stolen property, and to aid the State Board of~~  
2 ~~Equalization to detect possible sales tax evasion by the~~  
3 ~~implementation, deployment, and maintenance of a uniform,~~  
4 ~~statewide, state-administered electronic data reporting system that~~  
5 ~~records reportable transactions of persons whose business includes~~  
6 ~~the buying, selling, trading, auctioning, or taking in pawn of~~  
7 ~~tangible personal property.~~

8 ~~Further, it is the intent of the Legislature in enacting this article~~  
9 ~~to require all persons or entities whose business includes the~~  
10 ~~buying, selling, trading, auctioning, or taking in pawn of tangible~~  
11 ~~personal property to timely report those transactions to the~~  
12 ~~Department of Justice through the electronic data reporting~~  
13 ~~system, unless the property or the transaction is specifically~~  
14 ~~exempt herein, for the purpose of correlating these reports with~~  
15 ~~other reports of city, county, city and county, and state law~~  
16 ~~enforcement agencies and further utilizing the services of the~~  
17 ~~Department of Justice to aid in tracing and recovering stolen~~  
18 ~~property.~~

19 ~~Further, it is the intent of the Legislature that the electronic data~~  
20 ~~reporting system be operated and maintained in a manner in which~~  
21 ~~all city, county, city and county, and state law enforcement~~  
22 ~~agencies may timely retrieve reportable transactions and may~~  
23 ~~enter reports of all stolen, embezzled, or lost property in a format~~  
24 ~~compatible with the requirements of this article.~~

25 ~~Further, it is the intent of the Legislature that the uniform~~  
26 ~~electronic data reporting system be funded exclusively by the~~  
27 ~~assessment of state license fees paid by a person whose business~~  
28 ~~includes the buying, selling, trading, auctioning, or taking in pawn~~  
29 ~~of tangible personal property, and that the electronic data reporting~~  
30 ~~system be operated either by the Department of Justice or a~~  
31 ~~third-party vendor under contract with the state, in a manner that~~  
32 ~~facilitates the rapid recovery of stolen or embezzled property and~~  
33 ~~to safeguard the privacy protections of consumers and businesses~~  
34 ~~provided for under state and federal law.~~

35 ~~The Legislature finds and declares that this article shall not be~~  
36 ~~superseded or supplanted by the provisions of any ordinance or~~  
37 ~~charter of any city, county, or city and county.~~

38 *SECTION 1. Section 21625 of the Business and Professions*  
39 *Code is amended to read:*

1 21625. (a) It is the intent of the Legislature in enacting this  
2 article to curtail the dissemination of stolen property ~~and~~, to  
3 facilitate the *rapid* recovery of stolen property, *and to aid the State*  
4 *Board of Equalization to detect possible sales tax evasion* by  
5 ~~means of a uniform, statewide, state-administered program of~~  
6 ~~regulation~~ *system of licensing and regulation of all persons or*  
7 *business entities buying, selling, trading, accepting for auction or*  
8 *for sale on consignment, auctioning, or taking in pawn of*  
9 *secondhand tangible personal property and by the*  
10 *implementation, deployment, and maintenance of a single,*  
11 *uniform, statewide, state-administered electronic data reporting*  
12 *system that records reportable transactions of persons or business*  
13 *entities whose principal business is includes the buying, selling,*  
14 *trading, accepting for auction or for sale on consignment,*  
15 *auctioning, or taking in pawn of secondhand tangible personal*  
16 *property and to aid the State Board of Equalization to detect*  
17 *possible sales tax evasion.*

18 (b) Further, it is the intent of the Legislature in enacting this  
19 article to require ~~the uniform statewide reporting of tangible~~  
20 ~~personal property acquired by~~ *all persons or business entities*  
21 *whose principal business is includes the buying, selling, trading,*  
22 *accepting for auction or for sale on consignment, auctioning, or*  
23 *taking in pawn of certain items of secondhand tangible personal*  
24 *property, unless the property or the transaction is specifically*  
25 *exempt herein as defined in Section 21627, to timely report those*  
26 *transactions to the Department of Justice through the electronic*  
27 *data reporting system, for the purpose of correlating these reports*  
28 *with other reports of city, county, and city and county, and state*  
29 *law enforcement agencies and further utilizing the services of the*  
30 *Department of Justice to aid in tracing and recovering stolen*  
31 *property.*

32 (c) Further, it is the intent of the *Legislature that the electronic*  
33 *data reporting system be operated and maintained in a manner in*  
34 *which all city, county, city and county, and state law enforcement*  
35 *agencies may timely retrieve reportable transactions.*

36 (d) Further, it is the intent of the *Legislature that the single*  
37 *uniform, statewide, electronic data reporting system be funded by*  
38 *the assessment of state license fees paid by every person or*  
39 *business entity whose business includes the buying, selling,*  
40 *trading, accepting for auction or for sale on consignment,*

1 *auctioning, or taking in pawn of secondhand tangible personal*  
2 *property, and that the electronic data reporting system be operated*  
3 *by the Department of Justice in a manner that facilitates the rapid*  
4 *recovery of stolen or embezzled property and safeguards the*  
5 *privacy protections of consumers and businesses provided for*  
6 *under state and federal law.*

7 *(e) The Legislature finds and declares that this article shall not*  
8 *be superseded or supplanted by the provisions of any ordinance or*  
9 *charter of any city, county, or city and county.*

10 SEC. 2. Section 21626 of the Business and Professions Code  
11 is amended to read:

12 21626. ~~(a) As used in this article, the following definitions~~  
13 ~~apply:~~

14 (a) A “secondhand dealer” means and includes any person,  
15 firm, ~~partnership, or corporation that is required by the local~~  
16 ~~agency to obtain a license to operate as a secondhand dealer or~~  
17 ~~whose partnership, corporation, franchisor, franchisee, or~~  
18 ~~business entity of any form whose business includes the buying,~~  
19 ~~selling, trading, taking in pawn, accepting for sale on~~  
20 ~~consignment, accepting for auctioning, or auctioning secondhand~~  
21 ~~tangible personal property. accepting for auction or for sale on~~  
22 ~~consignment, or auctioning any secondhand tangible personal~~  
23 ~~property regardless of its value.~~

24 (b) A “coin dealer” means any person, firm, partnership, ~~or~~  
25 ~~corporation~~ corporation, franchisor, franchisee, or business entity  
26 of any form whose business ~~is~~ includes the buying, selling, ~~and~~  
27 ~~trading~~ trading, accepting for auction or for sale on consignment  
28 or auctioning, of coins, monetized bullion, or commercial grade  
29 ingots of gold, silver, or other precious metals.

30 (c) A “business machine dealer” is a person, firm, partnership,  
31 ~~or corporation~~ corporation, franchisor, franchisee, or business  
32 entity of any form whose business includes purchasing, or  
33 accepting in trade or for sale on consignment, from an individual  
34 a “business machine” as described in Section ~~21627~~ 21626.1.

35 (d) A “local agency” means a city, county, or city and county.

36 SEC. 3. ~~Section 21626.5 of the Business and Professions~~  
37 ~~Code is amended to read:~~

38 ~~21626.5. “Secondhand dealer,” as used in this article, does~~  
39 ~~not include any of the following:~~

1 ~~(a) Any person who performs the services of an auctioneer for~~  
2 ~~a fee or salary.~~

3 ~~(b) Any person whose business is limited to the reconditioning~~  
4 ~~and selling of major household appliances, provided all the~~  
5 ~~following conditions are met:~~

6 ~~(1) The person does not trade, take in pawn, accept for drop-off,~~  
7 ~~accept as a trade-in, accept for sale on consignment, accept for~~  
8 ~~auction, auction, or buy, except in bulk, the appliances.~~

9 ~~(2) The person does not perform repair services for owners of~~  
10 ~~appliances unless the appliance was purchased from the person.~~

11 ~~(3) The person has never been convicted of the crime of~~  
12 ~~attempting to receive or receiving stolen property or any other~~  
13 ~~theft-related crime.~~

14 ~~(c) A public charity or charitable organization that receives~~  
15 ~~secondhand tangible personal property as a nonmonetary~~  
16 ~~donation.~~

17 ~~(d) Participants at guns shows or events, as defined in Section~~  
18 ~~478.100 of Title 27 of the Code of Federal Regulations, or its~~  
19 ~~successor, who are not required to be licensed pursuant to Section~~  
20 ~~12071 of the Penal Code, who are acting in compliance with the~~  
21 ~~requirements of Section 12070 and subdivision (d) of Section~~  
22 ~~12072 of the Penal Code, and who are not a “gun show trader” as~~  
23 ~~described in paragraph (5) of subdivision (b) of Section 12070 of~~  
24 ~~the Penal Code.~~

25 ~~SEC. 4. Section 21627 of the Business and Professions Code~~  
26 ~~is amended to read:~~

27 ~~21627. (a) As used in this article, “tangible personal~~  
28 ~~property” means personal property that may be seen, weighed,~~  
29 ~~measured, felt, or touched or that is in any other way perceptible~~  
30 ~~to the senses.~~

31 ~~(b) “Tangible personal property” also includes the following:~~

32 ~~(1) All tangible personal property, new or used, including~~  
33 ~~motor vehicles, received in pledge as security for a loan by a~~  
34 ~~pawnbroker.~~

35 ~~(2) All tangible personal property that bears a serial number or~~  
36 ~~personalized initials or inscription that is purchased by a~~  
37 ~~secondhand dealer or a pawnbroker or that, at the time of the~~  
38 ~~purchase, bears evidence of having had a serial number or~~  
39 ~~personalized initials or inscription.~~



~~(3) Any business machine, including, but not limited to, typewriters; adding machines; check writing devices; cash registers; calculators; addressing machines; desktop, laptop, or rack-mounted computers; copying and accounting equipment; letter-sorting and folding devices; computer printers; digital data recording or transmission equipment; and multiline telephone equipment. A “business machine” does not include office equipment or fixtures or a machine taken solely for the purpose of repair and for which the machine is to be returned to the owner by the same business machine dealer who sold the owner that machine when it was new.~~

~~(c) As used in this article, “tangible personal property” does not include any of the following:~~

~~(1) Chattel paper, documents of title, instruments, securities, and money.~~

~~(2) New goods or merchandise purchased by a secondhand dealer from a bona fide manufacturer or distributor or wholesaler of those new goods or merchandise. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale or other evidence of purchase of those new goods or merchandise.~~

~~(3) Coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. “Commercial grade ingots” means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine sterling silver art bars and medallions, if the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay fineness.~~

~~SEC. 5. Section 21628 of the Business and Professions Code is amended to read:~~

~~21628. (a) Unless exempt under Section 21628.2, a secondhand dealer, coin dealer, or business machine dealer described in Section 21626 shall report to the Department of Justice every article of tangible personal property he or she acquired by pledge, purchase, or trade or accepted for sale on consignment or for auction from an individual. The report shall be transmitted daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice or by the electronic data reporting system described in Section 21632. The report shall~~



1 ~~account for all tangible personal property that he or she has~~  
2 ~~purchased, taken in trade, taken in pawn, accepted for sale on~~  
3 ~~consignment, or accepted for auctioning.~~

4 ~~(b) If a report of the acquisition of tangible personal property~~  
5 ~~is made other than by the electronic data reporting transmission~~  
6 ~~system, the report shall be delivered to the chief of police or to the~~  
7 ~~sheriff of the local agency where the secondhand dealer, coin~~  
8 ~~dealer, or business machine dealer is licensed to do business, in~~  
9 ~~accordance with the provisions of Sections 21630 and 21633.~~

10 ~~(c) On and after January 1, 2008, every transaction report for~~  
11 ~~tangible personal property required under this section shall be~~  
12 ~~made exclusively through the electronic data reporting system as~~  
13 ~~provided by Section 21632.~~

14 ~~(d) Whether the report of the acquisition of tangible personal~~  
15 ~~property is made on a form approved by the Department of Justice~~  
16 ~~or through the electronic data reporting system, every report shall~~  
17 ~~be legible, prepared in English, completed where applicable, and~~  
18 ~~include, but not be limited to, the following information:~~

19 ~~(1) The name and current address of the intended seller,~~  
20 ~~pledgor, or consignor of the property that was received.~~

21 ~~(2) The identification of the intended seller, pledgor, or~~  
22 ~~consignor of the property.~~

23 ~~(3) A complete and reasonably accurate description of the~~  
24 ~~property complying with the requirements of Section 21628.1.~~

25 ~~(4) A certification by the intended seller, pledgor, or consignor~~  
26 ~~that he or she is the owner of the property or has the authority to~~  
27 ~~sell, pledge, or consign the property.~~

28 ~~(5) A certification by the intended seller, pledgor, or consignor~~  
29 ~~that he or she has not at the time of the sale, pledge, or~~  
30 ~~consignment, conveyed a right to, or granted a lien against, the~~  
31 ~~property.~~

32 ~~(6) A certification by the intended seller, pledgor, or consignor~~  
33 ~~that to his or her knowledge and belief, the information is true and~~  
34 ~~complete.~~

35 ~~(7) A legible fingerprint taken from the intended seller,~~  
36 ~~pledgor, or consignor either affixed to the form approved by the~~  
37 ~~Department of Justice or in an electronic format consistent with the~~  
38 ~~requirements of the electronic data reporting system.~~

39 ~~(e) Any person who conducts business as a secondhand dealer~~  
40 ~~at any gun show or event, as defined in Section 478.100 of Title~~

~~27 of the Code of Federal Regulations, or its successor, outside the jurisdiction that issued the secondhand dealer license in accordance with subdivision (d) of Section 21641 and who reports in a manner other than via the electronic data reporting system under Section 21632, may be required to submit a duplicate of the transaction report prepared pursuant to this section to the local law enforcement agency where the gun show or event is conducted. If the secondhand dealer reports via the electronic data reporting system, he or she shall delineate the transactions conducted at the gun show or event from the transactions that occurred at his or her regular place of business. The dealer shall denote the transactions that occurred during the gun show or event and list on the report the name of the city, county, or city and county where the gun show or event was conducted.~~

~~SEC. 6.~~

*SEC. 3. Section 21626.1 is added to the Business and Professions Code, to read:*

*21626.1. (a) As used in this article, a "business machine" includes, but is not limited to, typewriters, adding machines, check-writing devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, computer printers, digital data recording or transmission equipment, multiline telephone equipment, and desktop, laptop, or rack-mounted computers.*

*(b) A "business machine" does not include office equipment or fixtures or a machine taken solely for the purpose of repair when the machine is to be returned to the owner following the repair.*

*SEC. 4. Section 21626.5 of the Business and Professions Code is amended to read:*

~~21626.5. "Secondhand~~ *As used in this article, "secondhand dealer,"* ~~as used in this article,~~ does not include either any of the following:

*(a) Any person who performs the services of an auctioneer for a fee or salary, and who does not take possession of the property.*

*(b) Any person whose business is limited to the reconditioning and selling of major household appliances, provided if all the following conditions are met:*

*(1) The person does not trade, take in pawn, accept for drop-off, accept as a trade-in, accept for sale on consignment, accept or for auction, auction, or buy, except in bulk, the appliances.*

(2) The person does not perform repair services for owners of appliances unless the appliance was purchased from the person.

(3) The person has never been convicted of the crime of attempting to receive or receiving stolen property or any other theft-related crime.

(c) *A public charity or charitable organization that receives secondhand tangible personal property as a nonmonetary donation.*

(d) *A participant at a gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who is not required to be licensed pursuant to Section 12071 of the Penal Code, who is acting in compliance with the requirements of Section 12070 and subdivision (d) of Section 12072 of the Penal Code, and who is not a “gun show trader” as described in paragraph (5) of subdivision (b) of Section 12070.*

(e) *Swap meet operators or vendors as defined in Section 21661.*

(f) *Any person whose business is limited to the buying, selling, trading, or accepting for sale on consignment of secondhand clothing, if all of the following conditions are met:*

(1) *The person does not trade, accept for sale on consignment, accept for auction, auction, or buy furs, clothing ornamented with precious stones or gems, or such other clothing.*

(2) *The person has never been convicted of the crime of attempting to receive or receiving stolen property or any other theft-related crime.*

SEC. 5. *Section 21627 of the Business and Professions Code is amended to read:*

21627. (a) As used in this article, ~~“tangible~~ “secondhand tangible personal property” includes, but is not limited to, all secondhand tangible personal property ~~which that~~ bears a serial number or personalized initials ~~or inscription or which, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription,~~ inscriptions, or engravings.

(b) ~~“Tangible~~ “Secondhand tangible personal property” also includes, but is not limited to, the following:

(1) ~~All tangible personal property, new or used, including motor vehicles, received in pledge as security for a loan by a pawnbroker.~~

~~(2) All tangible personal property that bears a serial number or personalized initials or inscription which is purchased by a secondhand dealer or a pawnbroker or which, at the time of such purchase, bears evidence of having had a serial number or personalized initials or inscription.~~

~~(3) All personal property commonly sold by secondhand dealers which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to insure that it addresses current problems with stolen goods.~~

~~(c) As used in this article, “tangible personal property” does not include any new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of such new goods or merchandise by a secondhand dealer. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale or other evidence of purchase of such new goods or merchandise.~~

~~(d) As used in this article, “tangible personal property” does not include coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. “Commercial grade ingots” means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay fineness. Jewelry, sterling silver utensils, coin collections, precious metals, stones, or gems.~~

~~(2) Any “business machine” as defined in Section 21626.1.~~

~~(3) Nonserialized but identifiable items considered to be antiques, collectibles, clothing, art, or any other item with an individual value of two hundred fifty dollars (\$250) or more.~~

~~(c) As used in this article, “secondhand tangible personal property” does not include any item listed in Section 21627.2.~~

~~(d) This section shall become inoperative on the date the Attorney General certifies that the electronic data reporting system, described in Section 21632, is operational. On that date, Section 21627.1 shall become operative and supersede this section. This section shall be repealed on January 1 of the~~

1 immediately following year unless a later enacted statute, that is  
2 enacted before that date, deletes or extends that repeal date.

3 SEC. 6. Section 21627.1 is added to the Business and  
4 Professions Code, to read:

5 21627.1. (a) For purposes of this article, “secondhand  
6 tangible personal property” means secondhand personal property  
7 that may be seen, weighed, measured, felt, or touched and the  
8 possession of which is acquired by a secondhand, coin, or business  
9 machine dealer, or a pawnbroker through sale, trade, pledge, or  
10 acceptance for consignment or auction. “Secondhand tangible  
11 personal property” does not include any item listed in Section  
12 21627.2.

13 (b) This section shall become operative on the date that the  
14 Attorney General certifies that the electronic data reporting  
15 system, described in Section 21632, is operational.

16 SEC. 7. Section 21627.2 is added to the Business and  
17 Professions Code, to read:

18 21627.2. As used in this article, “secondhand tangible  
19 personal property” does not include any of the following:

20 (a) Chattel paper, documents of title, financial instruments,  
21 and money securities.

22 (b) New goods or merchandise purchased by a secondhand,  
23 coin, or business machine dealer or by a pawnbroker from a bona  
24 fide manufacturer, distributor, or wholesaler of those new goods or  
25 merchandise.

26 (c) Coins, monetized bullion, or commercial grade ingots of  
27 gold, silver, or other precious metals. ‘Commercial grade ingots’  
28 means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine  
29 sterling silver art bars and medallions, if the ingots, art bars, and  
30 medallions are marked by the refiner or fabricator as to their assay  
31 fineness.

32 (d) A “business machine” as defined in Section 21626.1 that is  
33 taken solely for repair and that is to be returned to the owner  
34 immediately following its repair.

35 SEC. 8. Section 21628 of the Business and Professions Code  
36 is amended to read:

37 21628. ~~Every~~ (a) Unless exempt under Section 21627.2, all  
38 secondhand tangible personal property that is acquired by  
39 purchase, trade, or accepted for sale on consignment or for  
40 auction by any secondhand ~~dealer or~~, coin ~~dealer~~, or business

1 machine dealer described in Section 21626, or by any pawnbroker;  
2 as defined in Section 21000 of the Financial Code, shall ~~report~~ be  
3 reported to the Department of Justice. The report shall be  
4 transmitted daily, or on the first working day after receipt or  
5 purchase of the property, on forms either approved or provided at  
6 actual cost by the Department of Justice; ~~or by the electronic data~~  
7 ~~reporting system described in Section 21632. The report shall~~  
8 ~~account for all tangible personal property which he or she that the~~  
9 ~~dealer or pawnbroker has purchased, taken in trade, taken in pawn,~~  
10 ~~accepted for sale on consignment, or accepted for auctioning.~~

11 (b) *If a report of the acquisition of tangible personal property*  
12 *is made other than by the electronic data reporting system, the*  
13 *report shall be delivered to the chief of police or to the sheriff of*  
14 *the local agency where the secondhand dealer, coin dealer, or*  
15 *business machine dealer, or pawnbroker is licensed to do business,*  
16 *in accordance with the provisions of Sections 21630 and 21633*  
17 ~~and subdivision (j) of this section. The~~

18 (c) *Whether the report of the acquisition of secondhand*  
19 *tangible personal property is made on a form approved by the*  
20 *Department of Justice or through the electronic data reporting*  
21 *system, every report shall be legible, and prepared in English,*  
22 ~~completed where applicable, and in full compliance with the~~  
23 ~~provisions of Section 21628.1. The report shall include, but not be~~  
24 ~~limited to, the following information:~~

25 ~~(a)~~

26 (1) The name and current address of the intended seller ~~or~~,  
27 trader, pledgor, or consignor of the property.

28 ~~(b)~~

29 (2) The identification of the intended seller ~~or~~, trader, pledgor,  
30 or consignor of the property. ~~The identification of the seller or~~  
31 ~~pledgor of the property shall be verified by the person taking the~~  
32 ~~information. The verification shall be valid if the person taking the~~  
33 ~~information reasonably relies on any one of the following~~  
34 ~~documents, provided that the document is currently valid or has~~  
35 ~~been issued within five years and contains a photograph or~~  
36 ~~description, or both, of the person named on it, is signed by the~~  
37 ~~person, and bears a serial or other identifying number:~~

38 ~~(1) A passport of the United States.~~

39 ~~(2) A driver's license issued by any state, or Canada.~~

40 ~~(3) An identification card issued by any state.~~



1 ~~(4) An identification card issued by the United States.~~

2 ~~(5) A passport from any other country in addition to another~~  
3 ~~item of identification bearing an address.~~

4 ~~(e)–~~

5 (3) A complete and reasonably accurate description of  
6 serialized ~~the~~ property, including, but not limited to, the  
7 following: serial number and other identifying marks or symbols,  
8 owner-applied numbers, manufacturer's named brand, and model  
9 name or number. Watches need not be disassembled when special  
10 skill or special tools are required to obtain the required  
11 information, unless specifically requested to do so by a peace  
12 officer. A special tool does not include a penknife, caseknife, or  
13 similar instrument and disassembling a watch with a penknife,  
14 caseknife, or similar instrument does not constitute a special skill.  
15 In all instances where the required information may be obtained  
16 by removal of a watchband, then the watchband shall be removed.  
17 The cost associated with opening the watch shall be borne by the  
18 pawnbroker, secondhand dealer, or customer *complying with the*  
19 *requirements of Section 21628.1.*

20 ~~(d) A complete and reasonably accurate description of~~  
21 ~~nonserialized property, including, but not limited to, the~~  
22 ~~following: size, color, material, manufacturer's pattern name~~  
23 ~~(when known), owner applied numbers and personalized~~  
24 ~~inscriptions and other identifying marks or symbols. Watches need~~  
25 ~~not be disassembled when special skill or special tools are required~~  
26 ~~to obtain the required information, unless specifically requested to~~  
27 ~~do so by a peace officer. A special tool does not include a penknife,~~  
28 ~~caseknife, or similar instrument and disassembling a watch with~~  
29 ~~a penknife, caseknife, or similar instrument does not constitute a~~  
30 ~~special skill. In all instances where the required information may~~  
31 ~~be obtained by removal of a watchband, then the watchband shall~~  
32 ~~be removed. The cost associated with opening the watch shall be~~  
33 ~~borne by the pawnbroker, secondhand dealer, or customer.~~

34 ~~(e)~~

35 (4) A certification by the intended seller ~~or, trader, pledgor, or~~  
36 *consignor* that he or she is the owner of the property or has the  
37 authority ~~of the owner~~ to sell ~~or, trade, pledge, or consign~~ the  
38 property.

39 ~~(f)~~



1 (5) A certification by the intended seller ~~or~~, trader, pledgor, or  
2 consignor that *he or she has not at the time of the sale, trade,*  
3 *pledge, or consignment, conveyed a right to, or granted a lien*  
4 *against, the property.*

5 (6) A certification by the intended seller, trader, pledgor, or  
6 consignor that to his or her knowledge and belief the information  
7 is true and complete.

8 ~~(g) A~~

9 (d) *At the time of the acquisition, a legible fingerprint shall be*  
10 *taken from the intended seller ~~or~~, trader, pledgor, as prescribed by*  
11 *the or consignor either affixed to the form approved by the*  
12 *Department of Justice or in an electronic format consistent with*  
13 *the requirements of the electronic data reporting system. If the*  
14 *fingerprint is affixed to a form either provided or approved by the*  
15 *Department of Justice, the fingerprint shall be maintained by the*  
16 *dealer for a period of three years from the date it was taken and*  
17 *shall be made available for inspection by any law enforcement*  
18 *officer or employee of the Department of Justice. This requirement*  
19 *does not apply to a coin dealer, unless required pursuant to local*  
20 *regulation.*

21 ~~(h) When a secondhand dealer complies with all of the~~  
22 ~~provisions of this section, he or she shall be deemed to have~~  
23 ~~received from the seller or pledgor adequate evidence of authority~~  
24 ~~to sell or pledge the property for all purposes included in this~~  
25 ~~article, and Division 8 (commencing with Section 21000) of the~~  
26 ~~Financial Code.~~

27 ~~In enacting this subdivision, it is the intent of the Legislature~~  
28 ~~that its provisions shall not adversely affect the implementation of,~~  
29 ~~or prosecution under, any provision of the Penal Code.~~

30 ~~(i)~~

31 (e) Any person who conducts business as a secondhand dealer  
32 at any gun show or event, as defined in Section 178.100 478.100  
33 of Title 27 of the Code of Federal Regulations, or its successor,  
34 outside the jurisdiction that issued the secondhand dealer license  
35 in accordance with subdivision (d) of Section 21641, and who  
36 reports in a manner other than via the electronic data reporting  
37 system under Section 21632, may be required to submit a duplicate  
38 of the transaction report prepared pursuant to this section to the  
39 local law enforcement agency where the gun show or event is  
40 conducted.

~~(j) (1) The Department of Justice shall, in consultation with appropriate local law enforcement agencies, develop clear and comprehensive descriptive categories denoting tangible personal property subject to the reporting requirements of this section. These categories shall be incorporated by secondhand dealers and coin dealers described in Section 21626 for purposes of the reporting requirements set forth herein. Any required report shall be transmitted by electronic means. The Department of Justice and local law enforcement agencies, in consultation with representatives from the secondhand dealer and coin dealer businesses, shall develop a standard format to be used statewide to transmit this report electronically.~~

~~(2) Twelve months after the format and the categories described in paragraph (1) have been developed, each secondhand dealer and coin dealer shall electronically report using this format the information required by this section under these reporting categories. Until that time, each secondhand dealer and coin dealer may either continue to report this information using existing forms and procedures or may begin electronically reporting this information under the reporting categories and using the format described in paragraph (1) as soon as each has been developed.~~

~~(3) A coin dealer who engages in less than 10 transactions each week in which he or she has purchased, taken in trade, taken in pawn, accepted for sale or consignment, or accepted for auctioning tangible personal property, shall report the information required by this section under the reporting categories described in paragraph (1) on a form developed by the Attorney General that the coin dealer shall transmit each day by facsimile transmission or by mail to the chief of police or sheriff. A transaction shall consist of not more than one item. Nothing in this section shall prohibit up to 10 transactions with the same customer per week, provided that the cumulative total per week for all customers does not exceed 10 transactions. Until that form is developed, these coin dealers shall continue to report information required by this section using existing forms and procedures. If these transactions increase to 10 per week, the coin dealer shall electronically report using the format described in paragraph (1) the information required by this section beginning six months after his or her transactions exceed 10 per week or 12 months after the format~~

described in paragraph (1) has been developed, whichever occurs later.

~~(4) For purposes of this subdivision, “item” shall mean any single physical article. However, with respect to a commonly accepted grouping of articles that are purchased as a set, including, but not limited to, a pair of earrings or place settings of china, silverware, or other tableware, “item” shall mean that commonly accepted grouping.~~

~~(5) Nothing in this subdivision shall be construed as excepting a secondhand dealer from the fingerprinting requirement of subdivision (g).~~

*(f) The secondhand dealer or pawnbroker shall delineate the transactions conducted at the gun show or event from the transactions that occurred at his or her regular place of business. The dealer or pawnbroker shall denote the transactions that occurred during the gun show or event and list on the report the name of the city, county, or city and county where the gun show or event was conducted.*

*(g) On and after the date that the Attorney General certifies that the electronic data reporting system, described in Section 21632, is operational, every transaction report for the acquisition of secondhand tangible personal property required under this section shall be reported through that electronic data reporting system.*

SEC. 9. Section 21628.1 of the Business and Professions Code is repealed.

~~SEC. 7.~~

SEC. 10. Section 21628.1 is added to the Business and Professions Code, to read:

21628.1. (a) When a secondhand dealer, coin dealer, or business machine dealer, as described in Section 21626, or a pawnbroker, as defined in Section 21000 of the Financial Code, reports an acquisition of *secondhand* tangible personal property, as required by Section 21628, the dealer or pawnbroker shall comply with the following requirements in completing the report:

(1) The identification of the seller, *trader*, pledgor, or consignor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, if the document is currently valid or has been issued

1 within five years and contains a photograph or description, or both,  
2 of the person named on it, is signed by the person, and bears a serial  
3 or other identifying number:

4 (A) A passport of the United States.

5 (B) A driver's license issued by any state or Canada.

6 (C) An identification card issued by any state.

7 (D) An identification card issued by the United States.

8 (E) A passport from any other country in addition to another  
9 item of identification bearing an address.

10 (2) The report shall provide a complete and reasonably  
11 accurate description of serialized property, including, but not  
12 limited to, the following: a serial number and other identifying  
13 marks or symbols, owner-applied numbers, manufacturer's name  
14 brand, and model name or number. A watch need not be  
15 disassembled if special skill or special tools are required to obtain  
16 the required information, unless specifically requested by a peace  
17 officer. A special tool does not include a penknife, caseknife, or  
18 similar instrument, and disassembling a watch with a penknife,  
19 caseknife, or similar instrument does not constitute a special skill.  
20 The watchband shall be removed if the required information may  
21 be obtained by its removal. The cost associated with opening the  
22 watch shall be borne by the pawnbroker, dealer, or customer.

23 (3) The report shall provide a complete and reasonably  
24 accurate description of nonserialized property, including, but not  
25 limited to, the following: size, color, material, manufacturer's  
26 pattern name (when known), owner-applied numbers and  
27 personalized inscriptions, and other identifying marks or symbols.  
28 A watch need not be disassembled if special skill or special tools  
29 are required to obtain the required information, unless specifically  
30 requested by a peace officer. A special tool does not include a  
31 penknife, caseknife, or similar instrument, and disassembling a  
32 watch with a penknife, caseknife, or similar instrument, does not  
33 constitute a special skill. The watchband shall be removed if the  
34 required information may be obtained by its removal. The cost  
35 associated with opening the watch shall be borne by the  
36 pawnbroker, dealer, or customer.

37 (b) Notwithstanding Section 21628, a dealer ~~who reports~~  
38 ~~transactions other than by the electronic data reporting system~~  
39 ~~described in Section 21632 is not required to submit the report to~~  
40 ~~the local law enforcement agency if the report of an acquisition of~~

1 *is not required to submit a report of an acquisition of the same*  
2 *property from the same customer if a report of the acquisition has*  
3 *been submitted within the preceding 12 months, unless submission*  
4 *of the report is specifically requested in writing by the local*  
5 *licensing authority or the property is a firearm.*

6 ~~SEC. 8. Section 21628.2 is added to the Business and~~  
7 ~~Professions Code, to read:~~

8 ~~21628.2. (a) A secondhand dealer, coin dealer, or business~~  
9 ~~machine dealer, as described in Section 21626, who engages in less~~  
10 ~~than 10 transactions each week in which he or she has purchased,~~  
11 ~~taken in trade, taken in pawn, accepted for sale or consignment, or~~  
12 ~~accepted for auctioning, tangible personal property, and for which~~  
13 ~~the aggregate value does not exceed one thousand dollars (\$1,000)~~  
14 ~~in any single week, shall report the information required by~~  
15 ~~Section 21628 on a form developed by the Attorney General. The~~  
16 ~~dealer shall transmit a completed and approved form each day by~~  
17 ~~facsimile transmission or by mail to the chief of police or sheriff~~  
18 ~~of the local agency in which the secondhand dealer, coin dealer, or~~  
19 ~~business machine dealer is licensed to do business.~~

20 ~~(b) A transaction shall consist of not more than one item.~~  
21 ~~Nothing in this section shall prohibit up to 10 transactions with the~~  
22 ~~same customer per week if the cumulative total per week for all~~  
23 ~~customers does not exceed 10 transactions or one thousand dollars~~  
24 ~~(\$1,000) in aggregate value. For purposes of this subdivision,~~  
25 ~~“item” means any single physical article. However, with respect~~  
26 ~~to a commonly accepted grouping of articles that are purchased as~~  
27 ~~a set, including, but not limited to, a pair of earrings or place~~  
28 ~~settings of china, silverware, or other tableware, “item” shall~~  
29 ~~mean that commonly accepted grouping.~~

30 ~~(c) Until the Attorney General develops the form described in~~  
31 ~~subdivision (a), dealers shall continue to report information~~  
32 ~~required by this section using existing forms and procedures. If~~  
33 ~~these transactions exceed 10 per week, or one thousand dollars~~  
34 ~~(\$1,000) in aggregate value per week, the dealer shall report using~~  
35 ~~the format described in Section 21628 beginning six months after~~  
36 ~~his or her reportable acquisitions exceed 10 transactions or one~~  
37 ~~thousand dollars (\$1,000) in aggregate value per week.~~

38 ~~(d) Nothing in this section shall be construed as excepting a~~  
39 ~~dealer from the fingerprint requirement of paragraph (7) of~~  
40 ~~subdivision (d) of Section 21628.~~

~~(c) The local law enforcement agency may enter the information provided by the reporting dealer into the electronic data reporting system once that system is operational and assess the dealer a fee not to exceed fifty cents (\$0.50) per report.~~

~~SEC. 9.~~

*SEC. 11.* Section 21628.3 is added to the Business and Professions Code, to read:

21628.3. (a) When a secondhand dealer, coin dealer, or business machine dealer, as described in Section 21626, *or a pawnbroker, as defined in Section 21000 of the Financial Code,* complies with all of the provisions of Sections 21628, ~~21628.1, and 21628.2~~ and 21628.1, he or she shall be deemed to have received from the seller, ~~trader,~~ pledgor, or consignor adequate evidence of authority to sell ~~or pledge, pledge, trade, or accept for consignment or auction~~ the property for all purposes included in this article and in Division 8 (commencing with Section 21000) of the Financial Code.

(b) It is the intent of the Legislature that the provisions of this section shall not adversely affect the implementation of, or prosecution under, any provision of the Penal Code, nor compromise any right of privacy accorded to ~~the~~ *to the secondhand, coin, or business machine* consumer or the dealer, as described in Section 21626, *or to a pawnbroker, as defined in Section 21000 of the Financial Code,* under any state or federal law.

(c) This article shall be construed liberally to effectuate the legislative intent *to continue a uniform, statewide, state-administered program of regulation of persons and entities whose business includes the buying, selling, trading, auctioning, accepting for auction or for sale on consignment, or taking in pawn, tangible personal property* and to create and to implement by January 1, 2008, a *single*, uniform, statewide electronic data reporting system for the reporting of transactions required by this article.

~~SEC. 10. Section 21628.5 of the Business and Professions Code is amended to read:~~

~~21628.5. (a) Every business machine dealer who reports transactions other than via the electronic data reporting system, shall report all used business machines that he or she has purchased, taken in trade, or accepted for sale or consignment,~~



1 from an individual, to the chief of police or to the sheriff in  
2 accordance with the provisions of Sections 21628 and 21630.

3 Every business machine dealer shall report all used business  
4 machines that he or she has repaired in accordance with the  
5 provisions of Section 21628 and Section 21630.

6 (b) No report of repair shall be required from a dealer servicing  
7 or repairing a machine in the possession of the owner to whom that  
8 dealer sold that machine when it was new.

9 (c) The local law enforcement agency may enter the  
10 information provided by the reporting dealer into the electronic  
11 data reporting system once that system is operational and assess  
12 the dealer a fee not to exceed fifty cents (\$0.50) per report.

13 SEC. 11. Section 21630 of the Business and Professions Code  
14 is amended to read:

15 21630. A report required by this article made other than  
16 through the electronic data reporting system shall be submitted to  
17 the police chief executive of the city or his or her designee if the  
18 transaction takes place within the territorial limits of an  
19 incorporated city. If the transaction takes place outside the  
20 territorial limits of an incorporated city, the report shall be  
21 submitted to the sheriff of the county or his or her designee.

22 SEC. 12. Section 21631 of the Business and Professions Code  
23 is amended to read:

24 21631. Notwithstanding any other provisions of law, all  
25 tangible personal property that is found in the shop of a  
26 pawnbroker, secondhand dealer, or coin dealer doing business  
27 under a California secondhand dealer's license, shall be reported  
28 as required under Section 21628 and shall be held as required  
29 under Section 21636 on forms as required under Section 21633.  
30 If no claim is made for the property for a period of 60 days after  
31 it is reported, the pawnbroker, secondhand dealer, or coin dealer  
32 may treat the property as property regularly acquired in the due  
33 course of business.

34 SEC. 13.

35 SEC. 12. Section 21628.5 of the Business and Professions  
36 Code is repealed.

37 21628.5. (a) Every business machine dealer shall report all  
38 used business machines which he has purchased, taken in trade, or  
39 accepted for sale or consignment, from an individual, to the chief



1 of police or to the sheriff in accordance with the provisions of  
2 Section 21628 and Section 21630.

3 ~~Every business machine dealer shall report all used business~~  
4 ~~machines which he has repaired, if required to do so by the chief~~  
5 ~~of police or the sheriff in accordance with the provisions of Section~~  
6 ~~21628 and Section 21630.~~

7 ~~No report of repair shall be required from a dealer servicing or~~  
8 ~~repairing a machine in the possession of the owner to whom that~~  
9 ~~dealer sold that machine when it was new.~~

10 ~~(b) As used in this section, the term “business machines”~~  
11 ~~includes, but is not limited to, typewriters, adding machines,~~  
12 ~~check writing devices, cash registers, calculators, addressing~~  
13 ~~machines, copying and accounting equipment, letter sorting and~~  
14 ~~folding devices, and recording equipment, but does not include~~  
15 ~~office furniture or fixtures.~~

16 *SEC. 13. Section 21628.5 is added to the Business and*  
17 *Professions Code, to read:*

18 *21628.5. (a) The Attorney General shall maintain the*  
19 *information reported pursuant to Sections 21628 and 21632.*  
20 *Access to the information is restricted to state and local law*  
21 *enforcement agencies and to the Department of Justice.*

22 *(b) The data transmitted to the Department of Justice through*  
23 *the electronic data reporting system is available to any peace*  
24 *officer when he or she has specific articulable facts causing the*  
25 *officer to believe that any one of the following is occurring:*

26 *(1) A seller, trader, pledgor, consignor, or secondhand, coin, or*  
27 *business machine dealer or pawnbroker is engaging in a property*  
28 *crime.*

29 *(2) The seller, trader, pledgor, or consignor is evading liability*  
30 *for sales taxes.*

31 *(3) The acquired secondhand tangible personal property was*  
32 *previously reported to be stolen.*

33 *(c) The Department of Justice may promulgate regulations to*  
34 *prevent the unauthorized use of the information contained in the*  
35 *electronic data system or the use of the information for any*  
36 *purpose inconsistent with the legislative intent expressed in this*  
37 *article.*

38 *(d) Except as provided in Sections 21641 and 21642 and in*  
39 *Sections 21300 and 21301 of the Financial Code, no fee, tax,*  
40 *license, levy, or other assessment may be charged by the state or*

1 any local agency against any secondhand, coin, or business  
2 machine dealer, as defined in this article, or any pawnbroker, as  
3 defined in Section 21000 of the Financial Code, for reporting the  
4 acquisition of secondhand tangible personal property as required  
5 by this article or for the purpose of implementing or maintaining  
6 the electronic data transmission system or to cover the cost for any  
7 state or local agency to access the electronic data reporting  
8 system.

9 SEC. 14. Section 21630 of the Business and Professions Code  
10 is amended to read:

11 21630. ~~If the transaction takes place within the territorial~~  
12 ~~limits of an incorporated city, the report~~ Until the date the Attorney  
13 General certifies that the electronic data reporting system,  
14 described in Section 21632, is operational, a report required by  
15 this article shall be submitted to the police chief executive of the  
16 city or his or her designee ~~if the transaction takes place within the~~  
17 ~~territorial limits of an incorporated city.~~ If the transaction takes  
18 place outside the territorial limits of an incorporated city, the report  
19 shall be submitted to the sheriff of the county or his or her designee.

20 SEC. 15. Section 21631 of the Business and Professions Code  
21 is amended to read:

22 21631. Notwithstanding any other provisions of law, all  
23 secondhand tangible personal property that is found abandoned in  
24 the shop of a pawnbroker, secondhand dealer, or coin, or business  
25 machine dealer, ~~doing business under a California secondhand~~  
26 ~~dealer's license,~~ shall be reported as required under subdivisions  
27 (e) and (d) of Section 21628, ~~including any additional information~~  
28 ~~required by Section 21628 that is known by the reporting person,~~  
29 and shall be held as required under Section 21636 ~~on forms as~~  
30 ~~required under Section 21633.~~ If no claim is made for the property  
31 for a period of 60 days after it is reported, the pawnbroker,  
32 secondhand dealer, or coin dealer may treat the property as  
33 property regularly acquired in the due course of business.

34 SEC. 16. Section 21632 is added to the Business and  
35 Professions Code, to read:

36 21632. (a) On or before January 1, 2006, the Attorney  
37 General shall, in consultation with appropriate local law  
38 enforcement agencies and representatives of the dealers described  
39 in Section 21626 and of pawnbrokers, as defined in Section 21000  
40 of the Financial Code, complete the following duties:

(1) Develop clear and comprehensive descriptive categories denoting tangible personal property subject to the reporting requirements of Section 21628. These categories shall be incorporated by a secondhand dealer, coin dealer, and business machine dealer described in Section 21626 *and by a pawnbroker, as defined in Section 21000 of the Financial Code*, for purposes of the reporting requirements set forth in Section 21628 *of this code and in Section 21028 of the Financial Code*.

(2) Establish a standard format to be used statewide to transmit the transaction report required by Section 21628 electronically via the electronic data reporting system.

~~(3) Either certify that the Department of Justice will be the exclusive operator of the electronic data reporting system described in this section or that it will contract with an independent, third-party contractor to operate the electronic data reporting system.~~

~~(b) On or before January 1, 2007, a uniform, statewide electronic data reporting system shall be operational. The system shall electronically receive all transaction reports required under Section 21628 from dealers described in Section 21626 and from pawnbrokers defined in Section 21000 of the Financial Code. The electronic data reporting system shall effectively interface with the stolen, embezzled, or lost property systems of state and local law enforcement agencies to achieve the legislative intent expressed in Section 21625. Authorized inquiries by local law enforcement agencies shall be processed by the electronic data reporting system in a manner that is consistent with the privacy protections accorded consumers and businesses under state and federal law.~~

~~(c) On or before January 1, 2008, the electronic data reporting system shall exclusively accept all transaction reports required by Section 21628 by electronic means. Reports required under Section 21628.5 may continue to be submitted using forms approved by the Department of Justice.~~

~~(d) The electronic data reporting system may be operated or administered by an independent third-party vendor who may be awarded a contract for the implementation and operation of the system.~~

*(b) On or before January 1, 2006, the Attorney General shall submit a report to the Legislature reporting the progress made in implementing the provisions set forth in subdivision (a) and setting*

1 *forth an anticipated timeline for complete implementation of the*  
2 *statewide electronic data reporting system, consistent with the*  
3 *requirements set forth in this section.*

4 *(c) If sufficient funds have been collected, expenditure*  
5 *authority has been authorized, and system development has been*  
6 *completed, a uniform, statewide electronic data reporting system*  
7 *shall be operational on or before January 1, 2007.*

8 *(d) (1) The electronic data reporting system shall be under the*  
9 *direction of the Attorney General and shall be operated in a*  
10 *manner consistent with the legislative intent of this article and the*  
11 *provisions of Section 21628.5.*

12 *(2) The system shall electronically receive all transaction*  
13 *reports required under Section 21628 from dealers described in*  
14 *Section 21626 and from pawnbrokers, as defined in Section 21000*  
15 *of the Financial Code.*

16 *(3) The electronic data reporting system shall effectively*  
17 *interface with the appropriate automated systems within the*  
18 *Department of Justice to achieve the legislative intent expressed*  
19 *in Section 21625.*

20 *(e) If all conditions for system development have been met, as*  
21 *described in this section, the electronic data reporting system shall*  
22 *receive all transaction reports required by Section 21628 by*  
23 *electronic means on or before January 1, 2008.*

24 ~~SEC. 14.~~

25 *SEC. 17. Section 21633 of the Business and Professions Code*  
26 *is amended to read:*

27 *21633. (a) (1) The report forms approved by the*  
28 *Department of Justice shall consist of not less than an original and*  
29 ~~*two copies one copy.*~~ *The Department of Justice shall not require*  
30 *the report form to consist of more than an original and two copies*  
31 *one copy when the forms are obtained from a source other than the*  
32 *department. A local law enforcement agency may request*  
33 *secondhand, coin, or business machine dealers or pawnbrokers,*  
34 *as defined in Section 21000 of the Financial Code, within its*  
35 *jurisdiction to use a report form consisting of more than an original*  
36 ~~*and two copies one copy.*~~ *However, each secondhand dealer or*  
37 *pawnbroker or group of dealers or pawnbrokers shall be required*  
38 *only to use a form consisting of an original and two copies one*  
39 *copy when the dealer or pawnbroker does not use a form obtained*  
40 *from the Department of Justice.*

(2) The Department of Justice shall allow the use of forms which ~~that~~ are compatible with computerization. The original ~~and the duplicate copy~~ shall be submitted by the ~~secondhand~~ dealer or pawnbroker in accordance with the provisions of Sections 21628 and 21630. One copy shall be retained by the ~~secondhand~~ dealer or pawnbroker in his or her place of business for a period of three years and shall be made available for inspection by any law enforcement officer.

(b) *This section shall remain in effect only until the date the Attorney General certifies that the electronic data reporting system, described in Section 21632, is operational. The section shall be repealed on January 1 of the immediately following year unless a later enacted statute, that is enacted before that date, deletes or extends that repeal date.*

SEC. 18. *Section 21634 of the Business and Professions Code is repealed.*

~~21634. The chief of police or the sheriff who receives a report on a form filed pursuant to the provisions of this article shall daily submit the original to the Department of Justice.~~

SEC. 19. *Section 21635 is added to the Business and Professions Code, to read:*

21635. *A secondhand dealer shall retain for one year from the date of purchase and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale, or other evidence of purchase of new goods or merchandise purchased from a bona fide manufacturer, distributor, or wholesaler of those new goods or merchandise.*

SEC. 20. *Section 21636 of the Business and Professions Code is amended to read:*

21636. (a) Every ~~secondhand dealer and~~ coin, and business machine dealer and every pawnbroker, as defined in Section 21000 of the Financial Code, shall retain in his or her possession for a period of 30 days all tangible personal property reported under Sections 21628, 21629, and 21630. The 30-day holding period with respect to this tangible personal property shall commence with the date the report of its acquisition was made to *the electronic reporting system or to* the chief of police or to the sheriff by the secondhand dealer and coin dealer. The chief of police or the sheriff may for good cause, as specified by the Department of Justice, authorize prior disposition of any ~~such~~ property described

1 in a specific report, ~~provided that~~ if a secondhand dealer who  
2 disposes of tangible personal property pursuant to that  
3 authorization ~~shall report~~ *reports* the sale ~~thereof~~ *of the property*  
4 to the chief of police or the sheriff.

5 (b) During the 30-day holding period specified in subdivision  
6 (a) every secondhand dealer and coin dealer shall produce any  
7 tangible personal property reported under Sections 21628, 21629,  
8 and 21630 for inspection by any peace officer or employee  
9 designated by the chief of police or sheriff.

10 (c) Property subject to inspection as specified in subdivision  
11 (b) and property held in pawn, which is stored off the business  
12 premises of the licensee, shall, upon request for inspection, be  
13 produced at the licensee's business premises within one business  
14 day of a request.

15 (d) Any person who conducts business as a secondhand dealer  
16 at any gun show or event, as defined in Section ~~178.100~~ *478.100*  
17 of Title 27 of the Code of Federal Regulations, or its successor,  
18 outside the jurisdiction that issued the secondhand dealer license  
19 in accordance with subdivision (d) of Section 21641, may be  
20 required to submit for inspection, as specified in subdivision (b),  
21 any firearm acquired at a gun show or event within 48 hours of the  
22 request of the local law enforcement agency in the jurisdiction  
23 where the gun show or event was conducted at a location specified  
24 by the local law enforcement agency.

25 *SEC. 21. Section 21636.4 is added to the Business and*  
26 *Professions Code, to read:*

27 *21636.4. A secondhand, coin, or business machine dealer and*  
28 *a pawnbroker, as defined in Section 21000 of the Financial Code,*  
29 *shall not buy, sell, trade, auction, accept for auction or accept for*  
30 *sale on consignment, or take in pawn any item of secondhand*  
31 *tangible personal property that possesses an altered or obliterated*  
32 *serial number.*

33 *SEC. 22. Section 21636.7 is added to the Business and*  
34 *Professions Code, to read:*

35 *21636.7. Notwithstanding any other provision of law, a*  
36 *person who advertises or displays a sign or card or other device*  
37 *indicating to the public that he or she is a secondhand dealer, coin*  
38 *dealer, or business machine dealer, or who causes his or her name*  
39 *or business name to be included in a classified advertisement or*  
40 *directory under a classification for a secondhand dealer, coin*



dealer, or business machine dealer, is subject to the provisions of this article.

~~SEC. 15.~~

SEC. 23. Section 21636.8 is added to the Business and Professions Code, to read:

21636.8. (a) It is a misdemeanor for any person to advertise as a secondhand dealer, coin dealer, or business machine dealer, as described in Section 21626, unless that person holds a valid license as that type of dealer, under this article.

(b) “Advertise” as used in this section includes, but is not limited to, *the solicitation or invitation to deal or to trade in secondhand tangible personal property regardless of the value of the secondhand tangible personal property, by means of the issuance of a card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building or structure or in any newspaper, magazine, or by airwave or any electronic transmission, or in any directory under a listing for a secondhand dealer, coin dealer, or business machine dealer.*

(c) A violation of this section is punishable ~~by a fine of not less than seven hundred dollars (\$700) and not more than one thousand dollars (\$1,000). The fine may be imposed in addition to any other punishment for a violation of this section as set forth in Section 21645.~~

~~SEC. 16. Section 21640 of the Business and Professions Code is amended to read:~~

~~21640. (a) It is unlawful for any person to engage in the business of a secondhand dealer, coin dealer, or business machine dealer, as defined in Section 21626, without being licensed as provided in this article.~~

~~(b) The court may assess a civil penalty in an action brought by a city attorney or district attorney for a violation of this section.~~

~~(c) A person who has twice been found in violation of this section and who within 10 years of the date of the first offense, engages in any business defined in Section 21626 without holding a current and valid license, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not exceeding six months or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.~~

~~(d) All civil penalties, forfeited bail amounts, and fines received by a court pursuant to this section shall be deposited with~~



~~the county treasurer of the county in which the court is situated. Fifty percent of these amounts shall be allocated to the State Treasury, and 50 percent shall be delivered to the city treasurer of the city, if the offense occurred in a city, or otherwise to the treasurer of the county in which the prosecution is conducted.~~

SEC. 17.— ~~Section 21641 of the Business and Professions Code is amended to read:~~

~~21641. (a) The chief of police, the sheriff, or, where appropriate, the police commission, shall accept an application for and grant a license permitting the licensee to engage in the business of a secondhand dealer, coin dealer, or business machine dealer, as defined in Section 21626, to an applicant who has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice. If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority may grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice.~~

~~(b) For the purposes of this section, “convicted” means a plea or verdict of guilty or a conviction following a plea of nolo contendere.~~

~~(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a secondhand dealer’s license solely on the grounds that he or she violated any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.~~

~~(d) Any person licensed as a firearms dealer pursuant to Section 12071 of the Penal Code, who is conducting business at gun shows or events pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071 of the Penal Code, and who has a valid secondhand dealer license granted by the appropriate local authorities in the jurisdiction where the firearms dealer license has been granted, shall be authorized to conduct business as a secondhand dealer at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its~~

~~successor, without regard to the jurisdiction within this state that issued the secondhand dealer license pursuant to subdivision (a) of this section. No additional fees or separate secondhand dealer license shall be required by any agency having jurisdiction over the locality where the gun show or event is conducted. However, the person shall otherwise be subject to, and comply with, the requirements of this article when he or she acts as a secondhand dealer at the gun show or event to the same extent as if he or she were licensed as a secondhand dealer in the jurisdiction in which the gun show or event is being conducted.~~

~~(e) Each applicant for a license described in this section shall pay an initial processing fee not to exceed fifty dollars (\$50) to cover the actual costs of processing the application, and each licensee shall pay a license issuance fee in the amount of one hundred dollars (\$100).~~

~~(f) All fees described in subdivision (e) shall be deposited in the State Treasury and credited to the Electronic Data Reporting System Fund, which is hereby created. The revenue in the fund shall be available to the Department of Justice upon appropriation by the Legislature in the annual Budget Act solely for the purposes of implementing and maintaining the electronic data reporting system described in Section 21632 and for reimbursing the local licensing authority for the actual costs of processing the initial license and the renewal applications.~~

~~SEC. 18.—Section 21642 of the Business and Professions Code is amended to read:~~

~~21642. —(a) A license granted pursuant to Section 21641 shall be renewable the second year from the date of issue, and every other year thereafter, upon the filing of a renewal application and the payment of a license renewal fee in the amount of one hundred dollars (\$100). The fee charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The licensing authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice. The fee shall be deposited into the Electronic Data Reporting System Fund pursuant to Section 21641.~~

~~(b) The license shall be subject to forfeiture by the licensing authority, and the licensee's activities as a secondhand dealer shall~~

1 be subject to being enjoined pursuant to Section 21646 for breach  
2 of any of the following conditions:

3 (1) ~~The business shall be carried on only at the location~~  
4 ~~designated on the license. The license shall designate all locations~~  
5 ~~where property belonging to the business is stored. Property of the~~  
6 ~~business may be stored at locations not designated on the license~~  
7 ~~only with the written consent of the local licensing authority.~~

8 (2) ~~The license or a copy thereof, certified by the licensing~~  
9 ~~authority, shall be displayed on the premises in plain view of the~~  
10 ~~public.~~

11 (3) ~~The licensee shall not engage in any act that the licensee~~  
12 ~~knows to be in violation of this article.~~

13 (4) ~~The licensee shall not be convicted of an attempt to receive~~  
14 ~~stolen property or any other offense involving stolen property. For~~  
15 ~~the purposes of this paragraph, “convicted” means a plea or~~  
16 ~~verdict of guilty or a conviction following a plea of nolo~~  
17 ~~contendere. Any action that the chief of police, the sheriff, or,~~  
18 ~~where appropriate, the police commission, is permitted to take~~  
19 ~~following the establishment of a conviction may be taken when the~~  
20 ~~time for appeal has elapsed, or the judgment of conviction has been~~  
21 ~~affirmed on appeal, or when an order granting probation is made~~  
22 ~~suspending the imposition of sentence, irrespective of a~~  
23 ~~subsequent order under the provisions of Section 1203.4 of the~~  
24 ~~Penal Code.~~

25 (e) ~~Notwithstanding subdivisions (a) and (b), no person shall~~  
26 ~~have his or her renewal application for a secondhand dealer’s~~  
27 ~~license denied, nor shall his or her secondhand dealer’s license be~~  
28 ~~forfeited solely on the grounds that he or she violated any~~  
29 ~~provision contained in Article 4 (commencing with Section~~  
30 ~~21625) or Article 5 (commencing with Section 21650) of this~~  
31 ~~chapter, or any provision contained in Chapter 2 (commencing~~  
32 ~~with Section 21200) of Division 8 of the Financial Code, unless the~~  
33 ~~violation demonstrates a pattern of conduct.~~

34 SEC. 19. ~~Section 21647 of the Business and Professions Code~~  
35 ~~is amended to read:~~

36 21647. (a) ~~Whenever any peace officer has probable cause to~~  
37 ~~believe that property, except coins, monetized bullion, or~~  
38 ~~“commercial grade ingots” as defined in paragraph (3) of~~  
39 ~~subdivision (c) of Section 21627, in the possession of a~~  
40 ~~pawnbroker, secondhand dealer, or coin dealer is stolen, the peace~~

1 officer may place a hold on the property for a period not to exceed  
2 90 days. When a peace officer places a hold on the property, the  
3 peace officer shall give the pawnbroker, secondhand dealer, or  
4 coin dealer a written notice at the time the hold is placed,  
5 describing the item or items to be held. During that period the  
6 pawnbroker, secondhand dealer, or coin dealer shall not release or  
7 dispose of the property, except pursuant to a court order or upon  
8 receipt of a written authorization signed by any peace officer who  
9 is a member of the law enforcement agency of which the peace  
10 officer placing the hold on the property is a member. A  
11 pawnbroker, secondhand property dealer, or coin dealer shall not  
12 be subject to civil liability for compliance with this section.

13 (b) Whenever property that is in the possession of a  
14 pawnbroker, secondhand dealer, or coin dealer, whether or not the  
15 property has been placed on hold, is required by a peace officer in  
16 a criminal investigation, the pawnbroker, secondhand dealer, or  
17 coin dealer, upon reasonable notice, shall produce the property at  
18 reasonable times and places or may deliver the property to the  
19 peace officer upon the request of any peace officer.

20 (c) Whenever a law enforcement agency has knowledge that  
21 property in the possession of a pawnbroker, secondhand dealer, or  
22 coin dealer has been reported as lost or stolen, the law enforcement  
23 agency shall notify in writing the person who reported the property  
24 as lost or stolen of the following:

25 (1) The name, address, and telephone number of the  
26 pawnbroker, secondhand dealer, or coin dealer who reported the  
27 acquisition of the property.

28 (2) That the law neither requires nor prohibits payment of a fee  
29 or any other condition in return for the surrender of the property,  
30 except that when the person who reported the property lost or  
31 stolen does not choose to participate in the prosecution of an  
32 identified alleged thief, the person shall pay the pawnbroker,  
33 secondhand dealer, or coin dealer the “out-of-pocket” expenses  
34 paid in the acquisition of the property in return for the surrender  
35 of the property.

36 (3) That if the person who reported the property as lost or stolen  
37 takes no action to recover the property from the pawnbroker,  
38 secondhand dealer, or coin dealer within 60 days of the mailing of  
39 the notice, the pawnbroker, secondhand dealer, or coin dealer may  
40 treat the property as other property received in the ordinary course

1 of business. During the 60-day notice period, the pawnbroker,  
2 secondhand dealer, or coin dealer may not release the property to  
3 any other person.

4 (4) That a copy of the notice, with the address of the person who  
5 reported the property as lost or stolen deleted, will be mailed to the  
6 pawnbroker, secondhand dealer, or coin dealer who is in  
7 possession of the property.

8 (d) When property that is in the possession of a pawnbroker,  
9 secondhand dealer, or coin dealer is subject to a hold as provided  
10 in subdivision (a), and the property is no longer required for the  
11 purpose of a criminal investigation, the law enforcement agency  
12 that placed the hold on the property shall release the hold on the  
13 property. When the law enforcement agency has knowledge that  
14 the property has been reported lost or stolen, the law enforcement  
15 agency shall then make notification to the person who reported the  
16 property as lost or stolen pursuant to subdivision (c).

17 (e) If a pledgor seeks to redeem property that is subject to a  
18 hold, the pawnbroker shall advise the pledgor of the name of the  
19 peace officer who placed the hold on the property and the name of  
20 the law enforcement agency of which the officer is a member. If  
21 the property is not required to be held pursuant to a criminal  
22 prosecution the hold shall be released.

23 (f) Whenever information regarding allegedly lost or stolen  
24 property is entered into the Department of Justice automated  
25 property system or automated firearms system, and the property  
26 is thereafter identified and found to be in the possession of a  
27 pawnbroker, secondhand dealer, or coin dealer, and the property  
28 is thereafter placed on a hold pursuant to this section and the hold,  
29 including any additional hold, is allowed to lapse, or 60 days  
30 elapse following the delivery of the notice required to be given by  
31 this section to the person who reported the property to be lost or  
32 stolen without a claim being made by that person, whichever is  
33 later, the pawnbroker, secondhand dealer, or coin dealer may mail  
34 under a Certificate of Mailing issued by the United States Post  
35 Office, addressed to the law enforcement agency that placed the  
36 property on hold, a written request to delete the property listing  
37 from the Department of Justice automated property system or  
38 automated firearms system, as is applicable. Within 30 days after  
39 the request has been mailed, the law enforcement agency shall  
40 either cause the property listing to be deleted as requested or place

1 ~~a hold on the property. If no law enforcement agency takes any~~  
2 ~~further action with respect to the property within 45 days after the~~  
3 ~~mailing of the request, the pawnbroker, secondhand dealer, or coin~~  
4 ~~dealer may presume that the property listing has been deleted as~~  
5 ~~requested and may thereafter deal with the property accordingly,~~  
6 ~~and shall not be subject to liability arising from the failure of the~~  
7 ~~removal of the property listing from the Department of Justice~~  
8 ~~automated property system or automated firearms system.~~

9 ~~(g) Nothing in this section shall be construed to alter the~~  
10 ~~authority of a peace officer to seize property pursuant to any other~~  
11 ~~provision of statutory or case law.~~

12 ~~SEC. 20. Section 21208 of the Financial Code is amended to~~  
13 ~~read:~~

14 ~~21208. (a) Every pawnbroker shall report daily or on the first~~  
15 ~~working day after receipt or purchase, all descriptions of all~~  
16 ~~property received in pledge or purchased as tangible personal~~  
17 ~~property, as defined in Section 21627 of the Business and~~  
18 ~~Professions Code, in whatever quantity received, including~~  
19 ~~tangible personal property taken in for sale or possessed on~~  
20 ~~consignment for sale, and tangible personal property taken in~~  
21 ~~trade.~~

22 ~~(b) (1) If the transaction took place within the territorial limits~~  
23 ~~of an incorporated city, the report shall be submitted to the police~~  
24 ~~chief executive of the city or his or her designee, by mail unless~~  
25 ~~otherwise agreed upon by the pawnbroker and the police chief~~  
26 ~~executive or his or her designee. If the transaction took place~~  
27 ~~outside the territorial limits of an incorporated city, the report shall~~  
28 ~~be submitted to the sheriff of the county, or his or her designee, by~~  
29 ~~mail unless otherwise agreed upon by the pawnbroker and the~~  
30 ~~sheriff or his or her designee.~~

31 ~~(2) All reports shall be on forms approved or provided at actual~~  
32 ~~cost by the Department of Justice. The police chief executive or~~  
33 ~~sheriff who receives a report on a form filed pursuant to the~~  
34 ~~provisions of this section shall daily submit a legible copy of the~~  
35 ~~transactions to the Department of Justice.~~

36 ~~(c) On and after January 1, 2008, every report required under~~  
37 ~~this section shall be made exclusively through the electronic data~~  
38 ~~reporting system described in Section 21632 of the Business and~~  
39 ~~Professions Code.~~

~~(d) Notwithstanding any other provision of law, a pawnbroker who engages in less than 10 transactions each week in which he or she has purchased, taken in trade, taken in pawn, accepted for sale or consignment, or accepted for auctioning, tangible personal property and for which the aggregate value does not exceed one thousand dollars (\$1,000) in any single week, shall report the information required by this section on a form developed by the Attorney General. The pawnbroker shall transmit a completed and approved form each day by facsimile transmission or by mail to the chief of police or sheriff of the local law enforcement agency for the jurisdiction where his or her business is licensed.~~

~~SEC. 21. Section 21300 of the Financial Code is amended to read:~~

~~21300. (a) The chief of police, the sheriff, or, where appropriate, the police commission, shall accept an application for and grant a license permitting the licensee to engage in the business of pawnbroker, as defined in Section 21000, at the address indicated on the application, to an applicant who has complied with the requirements of Sections 21303, 21304, and 21305 and has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice. If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority shall grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice.~~

~~(b) For the purposes of this section, “convicted” means a plea or verdict of guilty or a conviction following a plea of nolo contendere.~~

~~(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a pawnbroker’s license solely on the grounds that he or she violated any provision contained in Chapter 1 (commencing with Section 21000) or Chapter 2 (commencing with Section 21200) of this division or Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8 of the Business and Professions Code unless the violation demonstrates a pattern of conduct.~~

~~(d) Each applicant for a license described in this section shall pay an initial processing fee of fifty dollars (\$50) to cover the~~



1 ~~actual costs of processing the application, and each licensee shall~~  
2 ~~pay a license issuance fee of one hundred dollars (\$100). These~~  
3 ~~fees shall be deposited in the Electronic Data Reporting System~~  
4 ~~Fund created pursuant to Section 21641 of the Business and~~  
5 ~~Professions Code.~~

6 SEC. 22. ~~Section 21300.1 of the Financial Code is amended~~  
7 ~~to read:~~

8 ~~21300.1. (a) It is unlawful for any person who is not duly~~  
9 ~~licensed under this section to act as a pawnbroker or represent~~  
10 ~~himself, herself, or a business entity to be a pawnbroker or a~~  
11 ~~pawnbrokerage business entity.~~

12 ~~(b) In an action brought by a city attorney or district attorney~~  
13 ~~for a violation of this section, a civil penalty may be assessed in the~~  
14 ~~amount of not more than one thousand dollars (\$1,000) for the first~~  
15 ~~offense and not more than five thousand dollars (\$5,000) for the~~  
16 ~~second offense. Any person who has twice been found in violation~~  
17 ~~of this section and who within 10 years of the date of the first~~  
18 ~~offense engages in any business of a pawnbroker without holding~~  
19 ~~a current and valid license pursuant to this article, is guilty of a~~  
20 ~~misdemeanor punishable by imprisonment in a county jail for a~~  
21 ~~period not exceeding six months or by a fine not exceeding five~~  
22 ~~thousand dollars (\$5,000), or by both that fine and imprisonment.~~

23 ~~(c) All civil penalties, forfeited bail amounts, or fines received~~  
24 ~~by a court pursuant to this section shall, as soon as practicable after~~  
25 ~~their receipt, be deposited with the county treasurer of the county~~  
26 ~~in which the court is situated. Upon deposit, 50 percent of these~~  
27 ~~amounts shall be delivered to the State Treasury, and 50 percent~~  
28 ~~shall be delivered to the city treasurer of the city, if the offense~~  
29 ~~occurred in a city, or otherwise to the treasurer of the county in~~  
30 ~~which the prosecution is conducted.~~

31 SEC. 23. ~~Section 21301 of the Financial Code is amended to~~  
32 ~~read:~~

33 ~~21301. (a) A license granted pursuant to Section 21300 shall~~  
34 ~~be renewable the second year from the date of issue, and every~~  
35 ~~other year thereafter, upon the filing of a renewal application and~~  
36 ~~compliance with the requirements of Section 21303. The~~  
37 ~~Department of Justice and the chief of police, the sheriff, or, where~~  
38 ~~appropriate, the police commission may charge a fee in the amount~~  
39 ~~of one hundred dollars (\$100) for the license renewal. The~~  
40 ~~licensing authority shall collect the fee and transmit the fee and a~~

1 copy of the renewed license to the Department of Justice. The fee  
2 shall be deposited into the Electronic Data Reporting System Fund  
3 created pursuant to Section 21641 of the Business and Professions  
4 Code.

5 (b) The license shall be subject to forfeiture by the licensing  
6 authority, and the licensee's activities as a pawnbroker shall be  
7 subject to being enjoined pursuant to Section 21302, for breach of  
8 any of the following conditions:

9 (1) The business shall be carried on only at the location  
10 designated on the license. The license shall designate all locations  
11 where property belonging to the business is stored. Property of the  
12 business may be stored at locations not designated on the license  
13 only with the written consent of the local licensing authority.

14 (2) The license or a copy thereof, certified by the licensing  
15 authority, shall be displayed on the premises in plain view of the  
16 public.

17 (3) The licensee shall not engage in any act that the licensee  
18 knows to be in violation of this article.

19 (4) The licensee shall not be convicted of an attempt to receive  
20 stolen property or other offense involving stolen property. For the  
21 purposes of this paragraph, "convicted" means a plea or verdict  
22 of guilty or a conviction following a plea of nolo contendere. Any  
23 action that the chief of police, the sheriff, or, where appropriate,  
24 the police commission, is permitted to take following that  
25 conviction may be taken when the time for appeal has elapsed, the  
26 judgment of conviction has been affirmed on appeal, or an order  
27 granting probation is made suspending the imposition of sentence,  
28 irrespective of a subsequent order under Section 1203.4 of the  
29 Penal Code.

30 (e) Notwithstanding subdivisions (a) and (b), no renewal  
31 application for a pawnbroker's license may be denied, nor may his  
32 or her pawnbroker's license be forfeited, solely on the grounds that  
33 the applicant violated any provision contained in Chapter 1  
34 (commencing with Section 21000), Chapter 2 (commencing with  
35 Section 21200) of this division, or Article 4 (commencing with  
36 Section 21625) or Article 5 (commencing with Section 21650) of  
37 Chapter 9 of Division 8, of the Business and Professions Code  
38 unless the violation demonstrates a pattern of conduct.

39 SEC. 24. Section 21301.2 is added to the Financial Code, to  
40 read:

1 ~~21301.2. Notwithstanding the exemptions described in~~  
2 ~~Article 2 (commencing with Section 21050), a person who~~  
3 ~~advertises or displays a sign or card or other device that indicates~~  
4 ~~to the public that he or she is a pawnbroker, or who causes his or~~  
5 ~~her name or business name to be included in a classified~~  
6 ~~advertisement or directory under a classification for pawnbroker,~~  
7 ~~is subject to the provisions of this chapter.~~

8 ~~SEC. 25. Section 21301.3 is added to the Financial Code, to~~  
9 ~~read:~~

10 ~~21301.3. (a) It is a misdemeanor for a person to advertise as~~  
11 ~~a pawnbroker unless he or she holds a valid license as that type of~~  
12 ~~dealer under this chapter. "Advertise," as used in this section,~~  
13 ~~includes, but is not limited to, the issuance of a card, sign, or device~~  
14 ~~to any person; the causing, permitting, or allowing of any sign or~~  
15 ~~marking on or in any building or structure, or in any newspaper,~~  
16 ~~magazine, or by airwave or electronic transmission, or in any~~  
17 ~~directory under a listing for pawnbroker, as defined in Section~~  
18 ~~21000.~~

19 ~~(b) A violation of this section is punishable by a fine of not less~~  
20 ~~than seven hundred dollars (\$700) and not more than one thousand~~  
21 ~~dollars (\$1,000). This fine may be imposed in addition to any other~~  
22 ~~punishment imposed for a violation of this section.~~

23 ~~SEC. 26.~~

24 ~~SEC. 24. Section 21640 of the Business and Professions Code~~  
25 ~~is amended to read:~~

26 ~~21640. It is unlawful for any person to engage in the business~~  
27 ~~of a secondhand dealer, coin, or business machine dealer, as~~  
28 ~~defined in Section 21626, without being licensed as provided in~~  
29 ~~this article.~~

30 ~~SEC. 25. Section 21641 of the Business and Professions Code~~  
31 ~~is amended to read:~~

32 ~~21641. (a) The chief of police, the sheriff or, where~~  
33 ~~appropriate, the police commission, shall accept an application for~~  
34 ~~and grant a license permitting the licensee to engage in the business~~  
35 ~~of a secondhand dealer, coin dealer, or business machine dealer,~~  
36 ~~as defined in Section 21626, to an applicant who has not been~~  
37 ~~convicted of an attempt to receive stolen property or any other~~  
38 ~~offense involving stolen property. Prior to the granting of a license,~~  
39 ~~the licensing authority shall submit the application to the~~  
40 ~~Department of Justice. If the Department of Justice does not~~

1 comment on the application within 30 days thereafter, the  
2 licensing authority may grant the applicant a license. *The licensing*  
3 *authority shall not grant the license until the Department of Justice*  
4 *has completed a criminal offender record information background*  
5 *check on the applicant.* All forms for application and licensure,  
6 and license renewal, shall be prescribed and provided by the  
7 Department of Justice. A fee may be charged to the applicant as  
8 specified *in subdivision (e)* by the Department of Justice and *in*  
9 *subdivision (f)* by the local licensing authority for processing the  
10 initial ~~license~~ application. *An additional fee shall be charged by*  
11 *the Department of Justice for processing each applicant's*  
12 *fingerprint card and for completing the criminal offender record*  
13 *information background check pursuant to subdivision (i).*

14 (b) For the purposes of this section, “convicted” means a plea  
15 or verdict of guilty or a conviction following a plea of nolo  
16 contendere.

17 (c) Notwithstanding subdivisions (a) and (b), no person shall  
18 be denied a secondhand dealer’s license solely on the grounds that  
19 he or she violated any provision contained in ~~Article 4~~  
20 ~~(commencing with Section 21625)~~ *this article* or in Article 5  
21 (commencing with Section 21650) of this chapter, or any  
22 provision contained in Chapter 2 (commencing with Section  
23 21200) of Division 8 of the Financial Code, unless the violation  
24 demonstrates a pattern of conduct.

25 (d) Any person licensed as a firearms dealer pursuant to Section  
26 12071 of the Penal Code, who is conducting business at gun shows  
27 or events pursuant to subparagraph (B) of paragraph (1) of  
28 subdivision (b) of Section 12071 of the Penal Code, and who has  
29 a valid secondhand dealer license granted by the appropriate local  
30 authorities in the jurisdiction where the firearms dealer license has  
31 been granted, shall be authorized to conduct business as a  
32 secondhand dealer at any gun show or event, as defined in Section  
33 ~~478.100~~ 478.100 of Title 27 of the Code of Federal Regulations,  
34 or its successor, without regard to the jurisdiction within this state  
35 that issued the secondhand dealer license pursuant to subdivision  
36 (a) of this section. No additional fees or separate secondhand  
37 dealer license shall be required by any agency having jurisdiction  
38 over the locality where the gun show or event is conducted.  
39 However, the person shall otherwise be subject to, and comply  
40 with, the requirements of this article when he or she acts as a

secondhand dealer at the gun show or event to the same extent as if he or she were licensed as a secondhand dealer in the jurisdiction in which the gun show or event is being conducted.

(e) Each applicant for a license described in this section shall pay an initial processing fee of one hundred ninety-five dollars (\$195) to cover the actual costs of processing the application and a license issuance fee in the amount of one hundred dollars (\$100). These fees shall be paid directly to the Department of Justice.

(f) An additional fee, not to exceed fifty dollars (\$50), may be charged by the local licensing authority to cover the cost of licensing enforcement. This fee shall be paid directly to the local licensing authority.

(g) All fees described in subdivision (e) shall be deposited into the Electronic Data Reporting System Fund, which is hereby established within the Department of Justice. The revenue in the fund is continuously appropriated to the Department of Justice for the sole purpose of implementing and maintaining the electronic data reporting system described in Section 21632, including all actual and reasonable costs related to establishing, maintaining, staffing, and using the electronic reporting system. The Department of Justice shall not use this revenue for any other purpose or to fund any other program or agency.

(h) The fees described in subdivisions (e) and (f) shall be set and assessed at the same rate as the fee set and assessed against a pawnbroker applicant pursuant to subdivisions (d) and (e) of Section 21300 of the Financial Code.

(i) The Department of Justice shall conduct a criminal offender record information background check on each business owner, franchise holder, partner, or corporate representative applying for a license under this article. Each applicant shall be assessed a fee of thirty-two dollars (\$32) to cover the cost of the criminal offender record information background check. The applicant shall pay this fee to the local licensing authority who shall forward the fee to the Department of Justice. The fee shall be deposited into the Electronic Data Reporting System Fund.

(j) The amount of the fees described in subdivisions (e) and (i) shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the budget of the Department of Justice.

1     *SEC. 26. Section 21642 of the Business and Professions Code*  
2     *is amended to read:*

3     21642. (a) A license granted pursuant to Section 21641 shall  
4     be renewable the second year from the date of issue, and every  
5     other year thereafter, upon the filing of a renewal application and  
6     the payment of a license renewal fee ~~specified by the licensing~~  
7     ~~authority. The Department of Justice may also charge a fee of not~~  
8     ~~more than twelve dollars (\$12) but not to exceed the actual~~  
9     ~~processing costs of the department. After the department~~  
10    ~~establishes a fee sufficient to reimburse the department for~~  
11    ~~processing costs, the~~ *in the amount of one hundred seventy-five*  
12    *dollars (\$175). The fee shall be paid to the Department of Justice.*  
13    *The amount of the fee charged shall increase at a rate not to exceed*  
14    *the legislatively approved annual cost-of-living adjustments for*  
15    *the department's budget. The local licensing authority shall*  
16    *advise the applicant to make his or her check or money order*  
17    *payable to the Department of Justice and that authority shall*  
18    collect the fee and transmit the fee and a copy of the renewed  
19    license to the Department of Justice.

20    (b) *The local licensing authority may collect a renewal fee, not*  
21    *to exceed fifty dollars (\$50), for the purpose of licensing*  
22    *enforcement.*

23    (c) The license shall be subject to forfeiture by the licensing  
24    authority, and the licensee's activities as a secondhand dealer shall  
25    be subject to being enjoined pursuant to Section 21646 for breach  
26    of any of the following conditions:

27    (1) The business shall be carried on only at the location  
28    designated on the license. The license shall designate all locations  
29    where property belonging to the business is stored. Property of the  
30    business may be stored at locations not designated on the license  
31    only with the written consent of the local licensing authority.

32    (2) The license or a copy thereof, certified by the licensing  
33    authority, shall be displayed on the premises in plain view of the  
34    public.

35    (3) The licensee shall not engage in any act ~~which~~ *that* the  
36    licensee knows to be in violation of this article.

37    (4) The licensee shall not be convicted of an attempt to receive  
38    stolen property or any other offense involving stolen property. For  
39    the purposes of this paragraph, "convicted" means a plea or  
40    verdict of guilty or a conviction following a plea of nolo



contendere. Any action ~~which~~ *that* the chief of police, the sheriff or, where appropriate, the police commission, is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

~~(e)~~

(d) Notwithstanding subdivisions (a) and ~~(b)~~ (c), no person shall have his or her renewal application for a secondhand dealer's license denied, nor shall his or her secondhand dealer's license be forfeited solely on the grounds that he or she violated any provision contained in ~~Article 4 (commencing with Section 21625)~~ *this article* or in Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

(e) *All fees described in subdivision (a) shall be deposited into the Electronic Data Reporting System Fund as described in Section 21641.*

SEC. 27. *Section 21645 of the Business and Professions Code is amended to read:*

21645. (a) A violation of any provision of this article under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor *and is* punishable as follows:

~~(a)~~

(1) For the first offense, a fine of up to one thousand five hundred dollars (\$1,500) or imprisonment in the county jail up to two months, or both.

~~(b)~~

(2) For the second offense, a fine of up to five thousand dollars (\$5,000) or imprisonment in the county jail up to four months, or both.

~~(c)~~

(3) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars (\$25,000) or imprisonment in the county jail up to six months, or both.

1 (b) A district attorney or city attorney may bring a civil action  
2 for the violation of any provision of this article. The court may  
3 assess a civil penalty in the action.

4 (c) All civil penalties, forfeited bail amounts, and fines received  
5 by the court pursuant to this section shall be deposited with the  
6 county treasurer in the county in which the court is situated.

7 SEC. 28. Section 21647 of the Business and Professions Code  
8 is amended to read:

9 21647. (a) Whenever any peace officer has probable cause to  
10 believe that property, except coins, monetized bullion, or  
11 “commercial grade ingots” as defined in subdivision ~~(d)~~ (c) of  
12 Section ~~21627~~ 21627.2, in the possession of a pawnbroker,  
13 secondhand dealer, ~~or~~ coin dealer, or business machine dealer is  
14 stolen, the peace officer may place a hold on the property for a  
15 period not to exceed 90 days. When a peace officer places a hold  
16 on the property, the peace officer shall give the pawnbroker,  
17 secondhand dealer, ~~or~~ coin dealer, or business machine dealer a  
18 written notice at the time the hold is placed, describing the item or  
19 items to be held. During that period the pawnbroker, secondhand  
20 dealer, ~~or~~ coin dealer, or business machine dealer shall not release  
21 or dispose of the property, except pursuant to a court order or upon  
22 receipt of a written authorization signed by any peace officer who  
23 is a member of the law enforcement agency of which the peace  
24 officer placing the hold on the property is a member. A  
25 pawnbroker, secondhand ~~property~~ dealer, ~~or~~ coin dealer, or  
26 business machine dealer shall not be subject to civil liability for  
27 compliance with this section.

28 (b) Whenever property that is in the possession of a  
29 pawnbroker, secondhand dealer, ~~or~~ coin dealer, or business  
30 machine dealer, whether or not the property has been placed on  
31 hold, is required by a peace officer in a criminal investigation, the  
32 pawnbroker, secondhand dealer, ~~or~~ coin dealer, or business  
33 machine dealer upon reasonable notice, shall produce the property  
34 at reasonable times and places or may deliver the property to the  
35 peace officer upon the request of any peace officer.

36 (c) Whenever a law enforcement agency has knowledge that  
37 property in the possession of a pawnbroker, secondhand dealer, ~~or~~  
38 coin dealer, or business machine dealer has been reported as lost  
39 or stolen, the law enforcement agency shall notify in writing the  
40 person who reported the property as lost or stolen of the following:

(1) The name, address, and telephone number of the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* who reported the acquisition of the property.

(2) That the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property, except that when the person who reported the property lost or stolen does not choose to participate in the prosecution of an identified alleged thief, the person shall pay the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* the “out-of-pocket” expenses paid in the acquisition of the property in return for the surrender of the property.

(3) That if the person who reported the property as lost or stolen takes no action to recover the property from the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* within 60 days of the mailing of the notice, the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* may treat the property as other property received in the ordinary course of business. During the 60-day notice period, the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* may not release the property to any other person.

(4) That a copy of the notice, ~~with~~ *from which* the address of the person who reported the property as lost or stolen ~~deleted~~ *has been removed*, will be mailed to the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* who is in possession of the property.

(d) When property that is in the possession of a pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* is subject to a hold as provided in subdivision (a), and the property is no longer required for the purpose of a criminal investigation, the law enforcement agency that placed the hold on the property shall release the hold on the property. When the law enforcement agency has knowledge that the property has been reported lost or stolen, the law enforcement agency shall then make notification to the person who reported the property as lost or stolen pursuant to subdivision (c).

(e) If a pledgor seeks to redeem property that is subject to a hold, the pawnbroker shall advise the pledgor of the name of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If

1 the property is not required to be held pursuant to a criminal  
2 prosecution the hold shall be released.

3 (f) Whenever information regarding allegedly lost or stolen  
4 property is entered into the Department of Justice automated  
5 property system or automated firearms system, and the property  
6 is thereafter identified and found to be in the possession of a  
7 pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business*  
8 *machine dealer* and the property is thereafter placed on a hold  
9 pursuant to this section and the hold, including any additional hold,  
10 is allowed to lapse, or 60 days elapse following the delivery of the  
11 notice required to be given by this section to the person who  
12 reported the property to be lost or stolen without a claim being  
13 made by that person, whichever is later, the pawnbroker,  
14 secondhand dealer, ~~or~~ coin dealer, *or business machine dealer*  
15 may mail under a Certificate of Mailing issued by the United States  
16 Post Office, addressed to the law enforcement agency that placed  
17 the property on hold, a written request to delete the property listing  
18 from the Department of Justice automated property system or  
19 automated firearms system, as is applicable. Within 30 days after  
20 the request has been mailed, the law enforcement agency shall  
21 either cause the property listing to be deleted as requested or place  
22 a hold on the property. If no law enforcement agency takes any  
23 further action with respect to the property within 45 days after the  
24 mailing of the request, the pawnbroker, secondhand dealer, ~~or~~ coin  
25 dealer, *or business machine dealer* may presume that the property  
26 listing has been deleted as requested and may thereafter deal with  
27 the property accordingly, and shall not be subject to liability  
28 arising from the failure of the removal of the property listing from  
29 the Department of Justice automated property system or  
30 automated firearms system.

31 ~~(g) Nothing in this section shall be construed to alter the~~  
32 ~~authority of a peace officer to seize property pursuant to any other~~  
33 ~~provision of statutory or case law. Notwithstanding Chapter 12~~  
34 ~~(commencing with Section 1407) of Title 10 of Part 2 of the Penal~~  
35 ~~Code, if a peace officer seizes secondhand tangible personal~~  
36 ~~property from a secondhand, coin, or business machine dealer or~~  
37 ~~a pawnbroker and does not place the item on a hold pursuant to~~  
38 ~~this section, the property shall only be disposed of pursuant to~~  
39 ~~Section 21206.8 of the Financial Code.~~

1 (h) A peace officer seizing or causing a hold to be placed on  
2 property in the possession of a pawnbroker, secondhand dealer,  
3 coin dealer, or business machine dealer shall do so only to secure  
4 the property's use for a criminal investigation and shall not seize  
5 or cause a hold provided for under this section to be placed on the  
6 property for the purpose of returning the property to the person  
7 who has reported the property stolen.

8 (i) Regardless of the method or manner in which an item is  
9 seized from a secondhand, coin, or business machine dealer or a  
10 pawnbroker, a receipt conforming to the requirements of Section  
11 21206.7 of the Financial Code shall be left with the dealer or  
12 pawnbroker from whom the property was seized.

13 SEC. 29. Section 21208 of the Financial Code is amended to  
14 read:

15 21208. (a) Every pawnbroker shall report daily or on the first  
16 working day after receipt ~~or purchase, all descriptions of, all new~~  
17 ~~or used pledged property received in pledge or purchased as~~  
18 ~~tangible personal property, as defined in Section 21627 of the~~  
19 ~~Business and Professions Code 21002, in whatever quantity~~  
20 ~~received, including property purchased as tangible personal~~  
21 ~~property at wholesale, tangible personal property taken in for sale~~  
22 ~~or possessed on consignment for sale, and tangible personal~~  
23 ~~property taken in trade. The report shall be made in compliance~~  
24 ~~with Article 4 (commencing with Section 21625) of Chapter 9 of~~  
25 ~~Division 8 of the Business and Professions Code and shall not be~~  
26 ~~subject to any requirements other than those set forth for~~  
27 ~~secondhand, coin, and business machine dealers as defined in~~  
28 ~~Section 21626 of the Business and Professions Code.~~

29 (b) If the transaction took place within the territorial limits of  
30 an incorporated city, the report shall be submitted to the police  
31 chief executive of the city or his or her designee, by mail unless  
32 otherwise agreed upon by the pawnbroker and the police chief  
33 executive or his or her designee. If the transaction took place  
34 outside the territorial limits of an incorporated city, the report shall  
35 be submitted to the sheriff of the county, or his or her designee, by  
36 mail unless otherwise agreed upon by the pawnbroker and the  
37 sheriff or his or her designee. All reports shall be on forms  
38 approved or provided at actual cost by the Department of Justice.  
39 ~~The police chief executive or sheriff who receives a report on a~~  
40 ~~form filed pursuant to the provisions of this section shall daily~~

1 ~~submit a legible copy of the transactions to the Department of~~  
2 ~~Justice.~~

3 *(c) This section shall become inoperative on the date the*  
4 *Attorney General certifies that the electronic data reporting*  
5 *system, described in Section 21632 of the Business and Professions*  
6 *Code, is operational. This section shall be repealed on January 1*  
7 *of the immediately following year unless a later enacted statute,*  
8 *that is enacted before that date, deletes or extends that date.*

9 SEC. 30. Section 21208 is added to the Financial Code, to  
10 read:

11 21208. (a) Every pawnbroker shall report daily or on the first  
12 working day after receipt, all new or used pledged property, as  
13 defined in Section 21002, in whatever quantity received. The  
14 report shall be made in compliance with the electronic data  
15 reporting system described in Section 21632 of the Business and  
16 Professions Code and shall not be subject to any requirements  
17 other than those set forth for secondhand, coin, and business  
18 machine dealers as defined in Section 21626 of the Business and  
19 Professions Code.

20 (b) This section shall become operative on the date the Attorney  
21 General certifies that the electronic data reporting system,  
22 described in Section 21632, of the Business and Professions Code  
23 is operational.

24 SEC. 31. Section 21300 of the Financial Code is amended to  
25 read:

26 21300. (a) The chief of police, the sheriff, or, where  
27 appropriate, the police commission, shall accept an application for  
28 and grant a license permitting the licensee to engage in the business  
29 of pawnbroker, as defined in Section 21000, at the address  
30 indicated on the application, to an applicant who has complied  
31 with the requirements of Sections 21303, 21304, and 21305 and  
32 has not been convicted of an attempt to receive stolen property or  
33 any other offense involving stolen property. Prior to the granting  
34 of a license, the licensing authority shall submit the application to  
35 the Department of Justice. If the Department of Justice does not  
36 comment on the application within 30 days thereafter, the  
37 licensing authority shall grant the applicant a license. *The*  
38 *licensing authority shall not grant the license until the Department*  
39 *of Justice has completed a criminal offender record information*  
40 *background check on the applicant.* All forms for application and



1 licensure, and license renewal, shall be prescribed and provided by  
 2 the Department of Justice. ~~A fee not to exceed the actual~~  
 3 ~~processing costs to the Department of Justice and the chief of~~  
 4 ~~police, the sheriff, or where appropriate, the police commission~~  
 5 ~~may be charged to the applicant for processing the initial license~~  
 6 ~~application.~~ *A fee may be charged to the applicant as specified in*  
 7 *subdivision (d) by the Department of Justice and in subdivision (e)*  
 8 *by the local licensing authority for processing the initial*  
 9 *application. An additional fee shall be charged by Department of*  
 10 *Justice for processing the applicant's fingerprint card for the*  
 11 *criminal offender record information background check pursuant*  
 12 *to subdivision (h).*

13 (b) For the purposes of this section, “convicted” means a plea  
 14 or verdict of guilty or a conviction following a plea of nolo  
 15 contendere.

16 (c) Notwithstanding subdivisions (a) and (b), no person shall  
 17 be denied a pawnbroker's license solely on the grounds that he or  
 18 she violated any provision contained in Chapter 1 (commencing  
 19 with Section 21000) or Chapter 2 (commencing with Section  
 20 21200) of this division or Article 4 (commencing with Section  
 21 21625) or Article 5 (commencing with Section 21650) of Chapter  
 22 9 of Division 8 of the Business and Professions Code unless the  
 23 violation demonstrates a pattern of conduct.

24 (d) *Each applicant for a license described in this section shall*  
 25 *pay an initial processing fee of one hundred ninety-five dollars*  
 26 *(\$195) to cover the actual costs of processing the application and*  
 27 *a license issuance fee in the amount of one hundred dollars (\$100).*  
 28 *These fees shall be paid directly to the Department of Justice.*

29 (e) *An additional fee, not to exceed fifty dollars (\$50), may be*  
 30 *charged by the local licensing authority to cover the cost of*  
 31 *licensing enforcement. This fee shall be paid directly to the local*  
 32 *licensing authority.*

33 (f) *All fees described in subdivision (d) shall be deposited into*  
 34 *the Electronic Data Reporting System Fund, which is established*  
 35 *pursuant to Section 21641 of the Business and Professions Code.*  
 36 *The revenue in the fund is continuously appropriated to the*  
 37 *Department of Justice for the sole purpose of implementing and*  
 38 *maintaining the electronic data reporting system described in*  
 39 *Section 21632 of the Business and Professions Code, as described*  
 40 *in Section 21641 of the Business and Professions Code. The*

1 Department of Justice shall not use this revenue for any other  
2 purpose or to fund any other program or agency.

3 (g) The fees described in subdivisions (d) and (e) shall be set  
4 and assessed at the same rate as the fee set and assessed against  
5 a secondhand, coin, or business machine dealer applicant  
6 pursuant to subdivisions (e) and (f) of Section 21641 of the  
7 Business and Professions Code.

8 (h) The Department of Justice shall conduct a criminal  
9 offender record information background check on each business  
10 owner, franchise holder, partner, or corporate representative  
11 applying for a license under this chapter. Each applicant shall be  
12 assessed a fee of thirty-two dollars (\$32) to cover the cost of the  
13 criminal offender record information background check. The  
14 applicant shall pay this fee to the local licensing authority who  
15 shall forward the fee to the Department of Justice. The fee shall be  
16 deposited into the Electronic Data Reporting System Fund.

17 (i) The amount of the fees described in subdivisions (d) and (h)  
18 shall increase at a rate not to exceed the legislatively approved  
19 annual cost-of-living adjustment for the budget of the Department  
20 of Justice.

21 SEC. 32. Section 21300.1 of the Financial Code is repealed.

22 ~~21300.1. It is unlawful for any person who is not duly licensed~~  
23 ~~under this section to act as a pawnbroker or represent himself,~~  
24 ~~herself, or a business entity to be a pawnbroker or a pawnbrokerage~~  
25 ~~business entity.~~

26 SEC. 33. Section 21301 of the Financial Code is amended to  
27 read:

28 21301. (a) A license granted pursuant to Section 21300 shall  
29 be renewable the second year from the date of issue, and every  
30 other year thereafter, upon the filing of a renewal application, the  
31 payment of the renewal fee, and compliance with the requirements  
32 of Section 21303. The Department of Justice ~~and the chief of~~  
33 ~~police, the sheriff, or, where appropriate, the police commission~~  
34 may charge a fee in the amount of one hundred seventy-five dollars  
35 (\$175) for the license renewal ~~not to exceed the actual processing~~  
36 ~~costs.~~ The amount of this fee shall increase at a rate not to exceed  
37 the Legislatively approved annual cost-of-living adjustment for  
38 the department's budget. The local licensing authority shall advise  
39 the applicant to make his or her check or money order payable to  
40 the Department of Justice and that authority shall then collect the

1 fee and transmit the fee and a copy of the renewed license to the  
2 Department of Justice.

3 (b) *The local licensing authority may collect a renewal fee, not*  
4 *to exceed fifty dollars (\$50), for the purpose of licensing*  
5 *enforcement in that jurisdiction.*

6 (c) The license shall be subject to forfeiture by the licensing  
7 authority, and the licensee's activities as a pawnbroker shall be  
8 subject to being enjoined pursuant to Section 21302, for breach of  
9 any of the following conditions:

10 (1) The business shall be carried on only at the location  
11 designated on the license. The license shall designate all locations  
12 where property belonging to the business is stored. Property of the  
13 business may be stored at locations not designated on the license  
14 only with the written consent of the local licensing authority.

15 (2) The license or a copy thereof, certified by the licensing  
16 authority, shall be displayed on the premises in plain view of the  
17 public.

18 (3) The licensee shall not engage in any act that the licensee  
19 knows to be in violation of this article.

20 (4) The licensee shall not be convicted of an attempt to receive  
21 stolen property or other offense involving stolen property. For the  
22 purposes of this paragraph, "convicted" means a plea or verdict  
23 of guilty or a conviction following a plea of nolo contendere. Any  
24 action that the chief of police, the sheriff, or, where appropriate,  
25 the police commission, is permitted to take following that  
26 conviction may be taken when the time for appeal has elapsed, the  
27 judgment of conviction has been affirmed on appeal, or an order  
28 granting probation is made suspending the imposition of sentence,  
29 irrespective of a subsequent order under Section 1203.4 of the  
30 Penal Code.

31 ~~(e)~~

32 (d) Notwithstanding subdivisions (a) and (b), no renewal  
33 application for a pawnbroker's license may be denied, nor may his  
34 or her pawnbroker's license be forfeited, solely on the grounds that  
35 the applicant violated any provision contained in Chapter 1  
36 (commencing with Section 21000), Chapter 2 (commencing with  
37 Section 21200) of this division, or Article 4 (commencing with  
38 Section 21625) or Article 5 (commencing with Section 21650) of  
39 Chapter 9 of Division 8, of the Business and Professions Code  
40 unless the violation demonstrates a pattern of conduct.

(e) All fees described in subdivision (a) shall be deposited into the Electronic Data Reporting System Fund established pursuant to Section 21641 of the Business and Professions Code. The revenue in the fund is continuously appropriated to the Department of Justice for the sole purpose of implementing and maintaining the electronic data reporting system described in Section 21632 of the Business and Professions Code and may not be used by the Department of Justice for any other purpose or to fund any other program or agency.

SEC. 34. Section 21307 of the Financial Code is amended to read:

21307. (a) Except as otherwise specifically provided, the violation of any provision of this ~~chapter~~ division under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor; and is punishable as follows:

(1) For the first offense, a fine of up to one thousand five hundred dollars (\$1,500) or imprisonment in a county jail up to two months, or both.

(2) For the second offense, a fine of up to five thousand dollars (\$5,000) or imprisonment in a county jail up to four months, or both.

(3) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars (\$25,000) or imprisonment in a county jail up to six months, or both.

(b) A district attorney or city attorney may bring a civil action for the violation of any provision of this division, and a court may assess a civil penalty in the action. All civil penalties, forfeited bail amounts, and fines received by a court pursuant to this section shall be deposited with the county treasurer of the county in which the court is situated.

SEC. 35. Section 21308 is added to the Financial Code, to read:

21308. (a) It is unlawful for any person who is not duly licensed under this chapter to act as a pawnbroker or to represent himself or herself to be a pawnbroker or for a business entity to represent itself to be a pawnbrokerage.

(b) Notwithstanding the exemptions described in Article 2 (commencing with Section 21050) of Chapter 1, it is unlawful for a person to advertise as a pawnbroker unless he or she holds a

1 *valid license under this chapter. “Advertise,” as used in this*  
 2 *section, includes, but is not limited to, the issuance of a card, sign,*  
 3 *or device to any person; the causing, permitting, or allowing of any*  
 4 *sign or marking on or in any building or structure or in any*  
 5 *newspaper, magazine, or by airwave or electronic transmission or*  
 6 *in any classified advertisement or directory under a listing for*  
 7 *pawnbroker.*

8 *SEC. 36.* No reimbursement is required by this act pursuant  
 9 to Section 6 of Article XIII B of the California Constitution for  
 10 certain costs that may be incurred by a local agency or school  
 11 district because in that regard this act creates a new crime or  
 12 infraction, eliminates a crime or infraction, or changes the penalty  
 13 for a crime or infraction, within the meaning of Section 17556 of  
 14 the Government Code, or changes the definition of a crime within  
 15 the meaning of Section 6 of Article XIII B of the California  
 16 Constitution.

17 However, notwithstanding Section 17610 of the Government  
 18 Code, if the Commission on State Mandates determines that this  
 19 act contains other costs mandated by the state, reimbursement to  
 20 local agencies and school districts for those costs shall be made  
 21 pursuant to Part 7 (commencing with Section 17500) of Division  
 22 4 of Title 2 of the Government Code. If the statewide cost of the  
 23 claim for reimbursement does not exceed one million dollars  
 24 (\$1,000,000), reimbursement shall be made from the State  
 25 Mandates Claims Fund.

